

GENERAL LAWS
(AND JOINT RESOLUTIONS)
OF THE
LEGISLATURE OF ALABAMA

PASSED AT THE
SESSION OF 1939
HELD AT THE CAPITOL, IN THE CITY OF MONTGOMERY
Commencing Tuesday, January 10, 1939



FRANK M. DIXON, Governor.
A. A. CARMICHAEL, Lieutenant-Governor.
J. N. POOLE, President Pro Tem. of the Senate.
HUGH D. MERRILL, Speaker of the House.

I, John Brandon, Secretary of State in and for the State of Alabama, do hereby certify that this volume is published by the authority of the State of Alabama, and in accordance with law.

JOHN BRANDON,
Secretary of State.

BIRMINGHAM PRINTING COMPANY
State Printers and Binders
Birmingham, Alabama
1940

Entered according to Act of Congress, in the year 1939

by Frank M. Dixon, Governor of Alabama,

for use of said State

In the office of the Librarian of Congress at Washington, D. C.

MESSAGE OF GOVERNOR BIBB GRAVES

To the Legislature of Alabama:

Pursuant to the provisions of our Constitution, the customs of our people and your courtesy, I come before you to give some account of my stewardship, to give you a bird's-eye view of the present condition of our State and a brief resume of its major activities during the closing quadrennium.

Alabama's chief officers are chosen by her people.

These officers are put in places of power to exercise that power, not over the people, who put them in those places but to exercise that power for those people.

Each of you is here because God put it into the hearts of the people of your Counties and Districts to have faith in you and to trust you to represent them. I pray that He will help each of you to be true to that faith and trust.

The mass of those with that faith and trust in you will not be present here, watching you to see to it that you think and vote a particular way—they trust that you will do that thinking and voting yourself and do it for them although they are absent at home. May God give to you the strength to resist the importunities of those who are present with you and to remain loyal to those trusting absent ones that put you here.

There is not anything in any scheme of government that can mean more to a free people than does the supreme legislative power of their sovereignty. There is not anything that can mean more to our people than the things that you do unless it be the things that you do not do. Let me urge that you do the things that need to be done and do no more.

The supreme need of Alabama, of America and of the World right now is more faith and confidence—more boosting and building—more peace and prosperity. These will insure a continuance of our present recovery, of our present progress and prosperity.

It is known of all that Alabama is now on her way upward and onward.

I believe that the State of Alabama is today on a sounder economic basis than is any government, State, or Nation in the world.

We are paying one hundred cents on the dollar of all of our appropriations, we are amortizing practically all of our bonded debt, and reducing it by paying it off each year in installments. And more than that, we are going into the open markets buying bonds

IV

not yet due for a generation—buying them and canceling them. One illustration will suffice. Some years ago our State issued some seventeen million warrant bonds, all of which were to be paid on a certain set day, with no provision for retiring them; these drew five percent interest per annum. That high rate was because the credit of the State was worth no more. After our finances were established on a sound basis and the credit of the State restored to the highest point in its history—and let me say here that every obligation of the State of Alabama is now graded “A” in all the financial marts of America—we were enabled to refund those bonds on a basis of three and a fraction percent interest, and we provided that a certain number should become due each year. As the interest amount went down the amount of maturities went up, making a constant payment every year. But mark you, the annual payments in bond interest and principal installments in no year were equal to or were to be as great as the old interest payments. So this refinancing under a re-established credit saved to the tax-payers of Alabama more than all of the principal of that seventeen million dollar issue. Not only this, but we have gone into the open markets and purchased about two million dollars of these bonds—some of them not due for a quarter of a century.

You will recall that the Constitution provides that when these bonds shall be retired the funds set aside for the retirement shall be used for the reduction of the ad valorem taxes of the State. Let me advise you that if the present system is maintained, we have every reason to say that within five years every one of these bonds will have been paid off and the funds set aside for their liquidation will then more than pay the State's two and one-half mill ad valorem tax; and the one-mill soldier's tax, leaving nothing of the ad valorem taxes except a part, and maybe none, of the school tax. That this be done is most desirable that we might have available an asset or a resource from which we could derive funds if the State's credit or its essential functions were jeopardized by some new depression.

Our toll bridge bonds were also retired on a twenty year amortization basis whereby the principal and interest installments each year were less than the annual interest was. So we have saved all the amount of that principal, and besides we were enabled to get Congress to give us back half of the cost of the bridges on Federal Aid to be used for Federal Aid road building. The only State obligations that we have that are not being amortized are the old Carpet-bag bonds that cannot be well refinanced until they shall become due, but these cover only a small percentage of our obligation.

Briefly, in matters of construction let me say that with the State, County and City resources, together with Federal Aid there

have already been built, or are now in process of building, County and City schools to the amount of \$16,213,638.00. The like figure for higher institutions is \$6,483,776, making a total educational construction program for the quadrennium of \$22,697,414.00. These figures are supplied me by the Superintendent of Education and I am sure are correct.

We have constructed at the penitentiaries, largely defrayed by drawing upon the General Fund, some \$800,000.00 in buildings, and have near completion buildings costing more than a million dollars at the insane hospital and feeble minded institutions, this by raising the weekly quota allowed out of the General Fund for inmates and by paying out of the General Fund a half million appropriation made available by the Legislature when the condition of the Treasury justified it, all of which is being matched 55 to 45 with the Government.

Here about the Capitol you see with your own eyes some of the things we builders have done. The great Highway Department building is something like half a million asset. The Court building between three and four hundred thousand—the Memorial Hospital building cost \$204,000.00. We are housing therein many State Departments for which we formerly rented quarters and in addition we have rented to the Government for the housing of its Departments quarters therein for which we are receiving more than \$17,000.00 a year rent.

The new Memorial Building just across the street has been financed out of the General Fund of last year. To do so, we transferred out of the General Fund to the Highway Department Fund \$189,000.00 pursuant to a declaratory judgment we secured through the Courts enabling them to sponsor that building without any cost to that Department. The money was all transferred during the last fiscal year and is carried in their balances today.

Here let me add that our State Comptroller's books show that upon the opening of business this morning—this, the 10th day of January, 1939—there was a net balance in our State Treasury of eight million, one hundred and seventeen thousand, three hundred and nine dollars and eighty-eight cents, (\$8,117,309.88). That is a net balance after deducting all outstanding warrants.

Our highway record of accomplishment exceeded every dream. In three-way highway program alone, Mr. Harry Hopkin's Department gave a statement from Washington that Alabama had constructed more than 18% of all the three-way highway construction in the Union. The pavement that has been done, together with that now in process of completion, is 64% of all the paving in all the

VI

history of Alabama, notwithstanding other governors, including myself, had bond issues for that purpose.

We have freed the toll bridges, which together with our improved road system, has increased our gasoline receipts more than 40%. If this is just maintained the next quadrennium will have more than ten million more to spend on highways from State sources than we have had in these four years.

When our toll bridges were freed our delegation in Congress set in further road or bridge construction. This had to be done promptly or lost, and we were confronted with the problem of securing the money to finance this additional matching of this unexpected Federal Aid. Anticipating it, the Special Session of the Legislature authorized the Governor to use the proceeds of one cent of gasoline over a period of four years, and the counties the same, to secure funds for Federal matching. The State has to finance all of this—has to pay the bills before we can send them to Washington to get our part back. We made agreements with the counties whereby they contributed, or were to contribute, approximately one-fourth. We borrowed from time to time an aggregate total \$2,050,000.00, but mark you, we never borrowed a penny to go beyond last year. Every penny was to be paid during this administration and the last penny was paid last year, and now the State Highway Department has coming back to it many hundreds of thousands of dollars that it advanced financing these programs. This all in addition to the fact that the Comptroller's books show a net credit to that Department of about a million dollars.

The last report of the Bureau of Roads to the United States shows that in the year reported on, which is now year before last, there were only two States in America that paved as many miles of road as did Alabama! One of them Colorado, the other Michigan. Colorado had a road bond issue and Michigan devotes a part of its sales tax to its highway building.

I believe it advisable to request a change of the Federal Aid laws because under the present set-up there is less than 600 miles in Alabama yet to be paved, whereas this past year we have paved a great deal more than that number of miles, and unless the system is changed there will not be enough of the Federal Aid system for us to work upon for twelve months, assuming that anything like the amount of construction that has been done will be continued.

Here is as good a place as any to say something of the complaints of the great pay roll of the Highway Department.

VII

When the National Administration, at the beginning of this quadrennium, forwarded drafts of bills thought necessary to adjust Alabama's machinery to the New Deal Program, the principal bill provided that the Governor should appoint a Director of Public Welfare and that that Director should appoint each County Board of Welfare. As you know, that had been the custom when the President appointed Mr. Holt and Mr. Holt appointed all the County and City Boards of Welfare that passed on all relief problems and selected through their machinery all those that should get jobs or help of any kind.

I changed this to provide that each County Governing Body or City Governing Body should appoint these Boards instead of my appointee appointing them.

So as to all of this pay roll business, where we had many thousands in the Highway Department that we pay, the State together with the cities and counties furnished the payroll but the State had absolutely nothing to do with the selections of those who draw the pay. The local authorities picked them and I saw that they were paid. That was a part of the agreement I had made with Washington.

Perhaps some of those relief laborers were not as efficient as would be the employees of a contractor but they didn't cost us anything and we have the roads and the bridges, and our State's economic system has absorbed the money that was paid to them.

PUBLIC EDUCATION

In giving an account of my stewardship, there is nothing which gives me greater pleasure than to contemplate the progress of public education during the years Alabama has entrusted to me her governorship. As I look over this period in retrospect, my heart overflows with gratitude when I contemplate the loyal cooperation of the legislatures which served with me during each administration.

Prior to the quadrennium beginning in 1927, four and five months' terms or less for white schools were common in many of the rural counties of the State. In 1925-26, the State provided only \$4,669,859 for the elementary and high schools of the State. In 1929-30, the State of Alabama was providing \$7,660,544 annually for the public elementary and high schools of the State. A minimum term of seven months was provided throughout the State.

Prior to the quadrennium beginning in 1927, only three of our public institutions of higher learning were standard colleges accredited by the Southern Association of Colleges and Secondary Schools. The physical plants of our public colleges were totally

VIII

inadequate for the provision of higher education. The State of Alabama provided in 1925-26 only \$682,633 annually for all the public institutions of higher learning in the State. In 1929-30, the State provided \$3,346,328 for the support of higher education. By 1929-30, five of our public institutions of higher learning were accredited as standard colleges.

During the quadrennium beginning in 1931, public education suffered great reverses largely as a result of the depression. In 1932-33, 50,000 white children or 21 per cent of the children in the white rural schools of Alabama had school terms of three months and less. In that same year, over 129,000 white children or 55 per cent of the children in the white rural schools of Alabama had school terms of five and one-half months and less. During the years 1933-34 and 1934-35, the Federal Government provided relief appropriations which enabled the public elementary and high schools of the State to operate on a relief basis. However, beginning with the year 1935-36, the Federal Government served notice that no more relief appropriations would be available for the operation of schools and it appeared that the conditions of 1932-33 would again prevail in our public schools. The 1935 Legislature made an emergency appropriation to guarantee a seven months' term for that year.

By 1935, most of our institutions of higher learning were threatened with the loss of their accreditation as standard colleges. Many school teachers of the State, including elementary, high school, and college professors, were teaching on greatly reduced salaries and even these salaries were not paid in many cases.

The 1935 Legislature did not shirk its duty and again public education was rehabilitated in the State of Alabama. A minimum school term of seven months had been promised to all of the schools, and now, for the third successive year, the minimum school term throughout Alabama will be seven months.

In 1933-34, the State of Alabama provided \$5,528,011 for the public elementary and high schools of the State as against \$10,000,000 annually provided by the 1935 Legislature. These legislative provisions brought immediate results. The total average attendance in the public schools has increased by more than 32,000. This increase is especially noteworthy in the high school grades, which show an increase from 119,362 in 1934 to 143,621 in 1938, or an increase of 24,259.

Everyone is well aware of the great need for vocational education in a state like Alabama. It is gratifying to note that during the past three years the number of vocational classes has been increased by 71.5 per cent; the number of vocational students enrolled has

IX

increased by 74.1 per cent; the number of people rehabilitated and placed annually in gainful occupations has increased by 44 per cent; and the number of crippled children hospitalized and treated annually has increased by 641 per cent.

The total number of illiterates from ten to twenty years of age has been reduced 41.4 per cent during the past four years. Hundreds of the inefficient and expensive one and two room schools have been abolished during the past four years and children transported to larger school centers where richer educational offerings are available to them. At the present time, 90 per cent of all of our white school children are enrolled in schools having three or more teachers. Only 4 per cent are enrolled in one-room schools. Fees in the elementary schools have been abolished and, for the first time in the history of the State, free elementary schools are in operation.

In 1933-34, the State of Alabama provided \$1,033,059 for the Institutions of higher learning. This has been increased to \$1,939,962. All of our institutions of higher learning which were on probation have had their probation removed by the accrediting agencies and we now have seven public institutions of higher learning fully accredited as standard colleges. The enrollment in our public colleges has increased more than 30 per cent since the early depression years. The 1935 Legislature enacted legislation enabling these colleges to take advantage of Federal grants for building purposes and buildings are now under construction at most of the colleges in the State, which buildings have been made necessary by the increased enrollments.

The statistics that I have just recited to you demonstrate emphatically that we have done far more than just give lip service to public education. It is one thing to be in favor of public education and it is quite another thing to provide for it. We have been willing to ask for increased taxes for the support of public education because never in the history of mankind has a nation bankrupted itself by educating its children. A state does not spend money for public education. It invests its money and that investment yields the highest income return of any investment a state can make. Sense in children's heads are worth more than dollars in safety vaults.

So important have been our achievements in the development of public education during the past four years that I cannot leave this subject without calling attention to some of the major points of the legislative program we enacted into law. The most important measure was the Minimum Program Law. In brief, this law equalized educational opportunity on a state-wide basis for the first

time in our history. The minimum program appropriation bill consolidated numerous special appropriations into a single equalization fund and increased that fund sufficiently to provide a minimum term of seven months throughout the State. The act governing the administration and distribution of the Minimum Program Fund provided for a fair and equitable calculation of the educational needs of the several school systems of the State for a seven months' term on a scientific basis. The law further provides for a sharing of the cost of that program by the State and by the local school units. Each county is required to apply a uniform local effort of five mills toward the cost of a seven months program and the remainder of the cost is paid from state funds. Teachers' salaries are given a prior claim in the minimum program but other necessary educational costs are included. Minimum expenditures are allowed for school transportation in order to make possible the consolidation of small and inefficient one and two teacher schools. A small amount has been set aside annually to provide for capital outlay in county school systems. The wisdom of this provision is apparent when one considers that the school building program during the past four years was made possible largely by reason of having this annual capital outlay allowance available. The amount allotted annually from the Minimum Program Fund for capital outlay has averaged \$846,000. Because this annual appropriation is available, boards of education have been able to sell long-term securities, without jeopardizing the minimum school term, at low rates of interest and to match the proceeds with Public Works Administration grants on a 55-45 basis. To date not a single public school application has been refused.

Let me again repeat the figures furnished by the State Superintendent of Education. There have been built together with what is already financed and is now being built, buildings for city and county schools \$16,213,638.00,—Higher institutions \$6,483,776, a total of \$22,697,414.00.

The Minimum Program Act was so drawn as to encourage efficiency in local school administration and to discourage inefficiency and at the same time to provide for local initiative in the determination of the local school programs. Under this program, classrooms are constructed only at school centers recommended by the Survey Staff under the direction of the State Department of Education. School centers are determined on the basis of scientific investigations, unhampered by politics or local bias.

The survey program inaugurated in my first administration is functioning in full force to the benefit of the children. This work is the immediate and long-time planning of an efficient and economical public school system. Sixty of the sixty-seven counties of

XI

the State have had comprehensive surveys, and partial surveys have been made where needed in the other counties.

Since almost no buildings were constructed during the earlier years of the depression, the building program just referred to has been a conservative one. It must be recalled that the average daily attendance in our schools has increased 20 per cent beyond the 1930 attendance. It would take, therefore, 550 buildings of six classrooms each to house the increase in attendance since 1930.

The School Warrant Act passed by the 1936 Special Session of the Legislature has also been an important factor in the development of the school program, and was also an economy measure. This Act corrected technical defects in the existing school securities laws of the State and requires a conservative borrowing policy. The School Warrant Act prohibits boards of education from incurring indebtedness sufficient to jeopardize the operation of the seven months' minimum program. The principal effect of this act was to enable boards of education to take advantage of prevailing low interest rates. Prior to 1935, boards of education commonly paid from five and one-half to six per cent interest on long-term securities. School warrants are now being sold at an average interest rate of $3\frac{3}{4}$ per cent and in some cases as low as $2\frac{3}{4}$ per cent at par. The net effect of this act is to save taxpayers of the State of Alabama hundreds of thousands of dollars in interest charges.

Prior to 1935, boards of education had full authority to accumulate floating indebtedness and thus jeopardize the educational program of the future. By the School Budget Act the Legislature placed each board of education in the State on a business basis and required each board of education to live within its income. In other words, this act prohibits boards of education from spending more in any year for current expenses than the revenue receipts available for current expenses for that year.

The Legislature also provided free textbooks for the first three grades of the elementary schools at an annual cost of less than \$200,000. This, too, was an economy measure.

It was brought to my attention that the repeaters—that is children who went to the first grade a year and who could not be promoted to the second grade but had to repeat the first grade—was higher among white children in Alabama than in any other State in the Union.—This was appalling—I knew it was not the fault of the children—couldn't believe it was the fault of the teachers.—Investigation proved that less than half had a single book—knowing the cause we provided free textbooks in the three lower grades.—The reduction of repeaters has in dollars more than saved the cost of the books. In this won't you "Keep on keeping on?"

XII

As we review these achievements, we cannot conclude that all the problems of public education are now solved. It must be remembered that the minimum program was formulated on a depression basis. It was a program primarily to rehabilitate the schools as we emerged from the worst depression in our history. It is true that the State of Alabama is now providing two and one-half millions of dollars more annually for the support of the public elementary and high schools than ever before in the history of the State. It is also true that the schools are now receiving three millions of dollars annually less funds from county, district, and local sources than in 1929-30. On the other hand, by the end of this year, the average daily attendance will have increased 20 per cent beyond 1929-30.

When the Minimum Program Law was enacted in 1935, it was contemplated that the assessed valuation of property would increase sufficiently to take care of the increase in educational need as business conditions improved. However, this expectation has not been realized because the assessed valuation of the State is only slightly above the 1935 level. Teachers have been increasing their training rapidly. During the past four years, the percentage of white teachers with two years or more of college training increased from 66 to 83 per cent. The percentage of teachers who are college graduates increased from 31 per cent to 43 per cent. Thus, we see that the educational system of Alabama is a growing system. We are a growing state industrially and agriculturally and, therefore, we must expect to grow in educational need. An appropriation which may be adequate for a seven months' minimum term at the beginning of a quadrennium may be entirely inadequate for the succeeding quadrennium. In my judgment, beginning with the new quadrennium, the public elementary and high schools will need increased funds of a minimum of \$2,000,000 annually in order to carry on an adequately functioning seven months' minimum term and pay teachers reasonable salaries.

During this quadrennium, we have been able to bring the schools back to the pre-depression level. That was the first necessary step. We need to take the next step. Most other states average a nine months' school term. Alabama should immediately provide an eight months' program now and provision should be made to take care of increasing attendance and to replace deteriorated buildings. We have one of the most efficient and economical school systems in the Nation up to our minimum, but we should increase that minimum.

With present resources—had appropriations permitted we could easily have run our schools eight months this year—of course we could not also have done all the building that we have done—but

XIII

the building is done and will not have to be done again.—The State is now amply able to make an immediate appropriation to prolong present terms to a minimum of eight months. In 1927 within the first two weeks of the administration such an appropriation was made and paid to carry the then terms to a minimum of seven months. Such should now be done to carry these terms to eight months.

Let the things we have done be but earnest of the things that we shall do.

The Federal Government should provide the next step to extend the eight months' program to a nine months' enriched program. We have every right to expect Federal support for public education in this State. It is conservatively estimated that from twelve to fifteen per cent of our educated youths move to some other section of the country. The Nation as a whole is the beneficiary of our surplus manpower and should bear its part of the educational expenses. To do so would not be charity but an investment in the welfare of the Nation. I recommend that this Legislature, through resolutions, request Federal support for education.

Our government is one of the few great democracies still in existence. The perpetuation of our form of government itself is absolutely dependent upon a broad system of universal public education. Our Minimum Program Law was formulated upon the philosophy that every child in this State, regardless of his place of residence, is entitled to an education at public expense. Whatever changes we make in our educational laws in the future, it is my earnest hope that we shall hold to the fundamental philosophy of equality of educational opportunity. If and when we depart from this philosophy, we cease to be a democratic government.

STATE TAX COMMISSION

In my opinion our Tax Commission has had the most difficult task that ever confronted an Alabama Department in the history of the State. When the Revenue Bill of the Special Session of two years ago was passed there was to all practical purposes a general strike against the State as to its enforcement. Its opponents by every means of publicity, press, radio and otherwise, proclaimed that it was unconstitutional and void and that their attorneys so advised, and urged none to comply with it until the Courts said so.

The inevitable result was innumerable lawsuits. More than a hundred of these were brought and finally were consolidated into some twenty odd that went through the courts. It entailed the

XIV

greatest expenditure for attorney's fees that I have known of in the history of any State.

After the cases were won there were hundreds of letters sent to the Governor and to the State Tax Commission, stating in substance that those affected were not able to make out the returns, were anxious to do so and requesting that some one be sent to them to show them how. When the Tax Commission agents requested payment they were told to prosecute by those that had such letters on file saying they didn't know how to make out the returns.

The result was, of course, we had to put on an army of book men that could go and make out those returns. This necessarily entailed a very great expense. After the suits were won and the taxpayers were listed on the books and were making their returns this extra force was reduced. And just like a new ground that has been cleared for the first time, the expense of removing the stumps and roots was great but now all the troubles have been removed, the fields are clear and fertile, of easiest cultivation, and are yielding more returns than we had anticipated.

The activities of this Department, in going into former delinquencies, have brought into the Treasury many hundreds of thousands of dollars to which the State had been entitled and has added much to the financial condition of our State today.

I commend to your special attention the official report of this Department. In my opinion no Department under such adverse conditions has ever, anywhere, functioned more efficiently and with less friction.

HEALTH DEPARTMENT

In Public Health Service Alabama again leads the world. In 1927, State appropriations for Public Health were increased from \$150,000.00 to \$640,000.00 a year, and counties and cities were required to match. It put Alabama the foremost sovereignty in the world in Public Health Service. Alabama was the Mecca to which health savants of the world resorted to see the highest perfection of health service in the world.

We contended that it was cheaper to keep people well than it was to bury them and we have proved it. The census figures of the United States of 1930, after the then system had been in effect four years, showed that there were only two states in America that had as low a negro death rate as had Alabama—Vermont and North Carolina, where there were no negroes to speak of—and only five

XV

states in America that had as low a white death rate as Alabama—every one of them West of the Mississippi, the Idaho, etc., where there were few children or old people.

Those figures showed that Alabama then had the lowest death rate of any normally populated state in the Union and possibly the lowest in the world. They showed that the human animal responds to sanitary and healthful conditions quicker than does a cow for dipping for ticks or a hog for cholera serum.

We know that this great human program with others went by the board during the depression which followed that administration, but now we have re-established on even a better basis than that of 1927.

Today there are three states in America that have all-time health service in every county and community—Delaware and Maryland, which are not rural states—and Alabama. No rich California, New York, Pennsylvania or Massachusetts takes care of the health and life of its citizens as does Alabama.

If they be not kept alive what's the use of doing anything in education or any other public service for them.

I read in a newspaper some months ago a statement from the Public Health Officer of Jefferson County in which he states that had the old mortality percentages prevailed in the then closing year there would have been 2,500 more deaths in Jefferson County than had actually occurred. Our health program had saved 2,500 deaths per year in one county. The cost of 2,500 funerals are many times more than all the cost of the health service of that great county. So, of truth, it has been shown that it is cheaper to keep them well than it is to bury them.

I have devoted a long active life-time to the welfare of those that could not take care of themselves. There is not anything, education, child welfare, old age pensions, closing poorhouses, care of dependents, or any other human welfare effort in which I take the satisfaction that I do from the things that I have helped to bring about in public health,—and with all that is within me, I beg you in this matter of keeping our people alive, well, healthy, vigorous and community assets, that you “keep on keeping on.”

CONVICT DEPARTMENT

In Alabama Executive Clemency is vested in the Governor. So completely is this so that it has been held that our courts could not be authorized to suspend sentences. This should be changed.

XVI

The Governor has unlimited power, therefore, unlimited responsibility for the exercise of clemency. He could use no further authority on this important matter than he now has.

I am causing to be submitted to your Houses a detailed, itemized, report of every felony case that has received any clemency at the hands of the Governor during the past four years, together with a report on all misdemeanor cases, fines and forfeitures.

Let me point out that when this administration began there were far more than four thousand convicts on temporary parole. Reasons for these could not be known by the incoming Governor. Their terms were expiring—hundreds each day. It placed a great burden upon the Executive. Many hundreds of these were returned to the penitentiary and served out their unexpired terms. The report submitted to you shows that of those then out on temporary parole I permanently paroled 3,965.

Let me call your further attention to the fact that the report submitted to you shows only ten convicts now on temporary parole as against more than four thousand when I came in. There will be no such burden upon my successor. One of the by-products of these conditions is that my parole report shows approximately four thousand who were originally turned out not by me. It is, therefore, the most voluminous report of its kind ever filed.

Eleven years ago there was inaugurated in Alabama a Christmas Parole System. In 1927 the Warden-General was asked to give the records of every convict, male or female, white or black, who had served for more than ten years, for whom no application for clemency had ever been made. As you may know the Department keeps monthly records of every convict. Of those that had served more than ten years 165 were found to have perfect records every month for each of the ten years. Over protests and warnings that these old hardened convicts would never come back; that there would be an epidemic of crime and that it was a dangerous proceeding, I took the position that any man or woman that could for ten years be so completely a captain of his or her own soul and so demean himself or herself as to get by any and every criticism of every guard or warden put over them were fit to be trusted. I turned them all out for a two weeks parole for Christmas. All but one were back on time. During the succeeding year I worked out of the penitentiary, generally by first submitting to the Board of Pardons, but where that could not be done, upon the recommendation of the Convict Department, and turned them loose on good behavior. The next year I brought the limit down to five years for those whom no applications from the outside had been presented. That year some two hundred and sixty odd with perfect records

XVII

were turned out. All but two came back. I brought it down to three and two years. I resumed that practice in this administration.

Up to this last Christmas there had been turned out on Christmas parole considerably more than three thousand men and women. The Department lost out of the whole three thousand or more only sixteen. This time the returns have not been so satisfactory. There are twenty-two out of 601 that failed to keep their word of honor. This is more in this one time than in all the preceding seven times. I am sorry that so many lost faith that conduct on the inside, together with faithful observance of their Christmas parole would ultimately result in their permanent release.

No Christmas parole was ever gotten in either of my administrations by any outside influence. It has come solely from the inside on the recommendation of the prison authorities based on the record of good behavior and the judgment of those authorities of the trustworthiness of the individual prisoner.

It has been the unvarying custom through the two administrations to let those that have behaved well inside and that have repeatedly behaved well outside and have returned promptly as promised at the expiration of their Christmas parole to work them out of the penitentiary except in most heinous cases. Many have been unable to bring their cases before the Board. In those cases the Department itself has recommended their parole. If you will examine the detailed, itemized statement showing the name, the county, the crime, the term of conviction and the date of the parole and the recommendations on which it was based you will find the Pardon Board, the Trial Judge or the Convict Department have recommended all but four cases.

In the last four years, of which report is submitted to you, the Executive has not gone over the head of the Board, the Bureau, the Trial Judge or the Department except as my records show in four cases. These four cases are the only ones where I, myself, in the exercise of the supreme authority determined that the convict was entitled to the parole in spite of the fact that those advisors whom it was my duty to consult honestly thought otherwise. As to those four cases my conscience is clear and I will stand upon the records.

The Constitution and the law give absolute power to the Governor and it should be so. Our people make him the representative of their sovereignty and clemency is the highest exercise of sovereign power and should never be delegated to any other than the representative of the sovereign majesty of our commonwealth.

I favor all proper machinery to aid the Chief Executive in reaching these most solemn conclusions, but I hope that the power will

XVIII

never be removed from him who the people elect as their representative, or so complicate it by intervening machinery as to make it impracticable for every citizen, high or low, to ultimately reach the supreme authority on this most important sovereign power.

I believe that machinery should be instituted to handle delinquencies prior to conviction. There are so many slips not indicative of fundamental delinquency or moral turpitude that should never be tried and convicted.

There should be a machinery whereby our Courts could put under surveillance such cases for such time as the Judge may deem, and under such restrictions as to him seem best, but they should never be brought to the point where the unfortunate will be stigmatized as a felon or a criminal.

I believe that machinery should be provided whereby our Courts can impose suspended sentences under such probations as they deem best.

I believe that a majority of those that find their way in the penitentiaries of Alabama,—yes, the overwhelming majority that find their way in the jails of Alabama—should never be so stigmatized. All of which should be under the Judiciary and should never reach the Executive Department.

In the former administration there was erected at Wetumpka a special garment factory for males convicted under twenty-one years. They were segregated, given light work and every effort made to shield them from hardened criminals. In the succeeding administration it chanced that Institution was destroyed by fire and segregation ended. Our resources have delayed its reestablishment, which together with the inhibitions on convict labor has delayed a repetition of that segregation until recent provision has been made therefor.

But looking to the segregation of the young unhardened lesser offenders we have had constructed at Speigner a new, most modern cement-steel penitentiary of the value of more than half a million dollars that is just ready for occupancy and has been devised for the purpose of being available for such segregation, if such is the desire of the State in the immediate future.

Up to twelve years ago Alabama derived more than a million a year net profit from convicts leased to coal mines, turpentine farms, etc. Knowing that to be fundamentally bad it was discontinued with some financial loss to the State Treasury, but during that quadrennium the convict population was divided about one-third on farms, one-third on road work and one-third in industry, cotton

XIX

mills, shirt factory, garment factory, tag mill, etc. We are still maintaining approximately that division.

The convicts on road work are a contribution out of the General Fund to the Highway Fund because we lease them at actual cost of maintenance less cost of conviction. This has been a very material element in our great highway construction program.

The third on farms have been more than self-sustaining and have returned some but not all of the cost of conviction.

The third in industry are not at all remunerative. The laws of Congress limiting the use of convict-made goods has made it necessary that we so curtail our activities in things like garment making, shirt making, etc., and we are required to sell practically all of the output of our cotton mills in foreign trade. This is quite expensive to us and the result has been that the Convict Department, which has increased from about 5,000 to about 7,000 in this administration, despite all that is said about turning them loose on parole, is difficult to make self-sustaining. We could have made it so had we not built the new penitentiary for segregation purposes, the new tuberculosis hospital, the abattoir plant at Kilby, the refrigeration plant at Speigner and increasing in hog droves, cattle herds and beef herds.

The greatest defect in our criminal administration is the fee system. In my messages to every Legislature that it has been my privilege to address I have urged that the fee system is fundamentally wrong and should be abolished. No court officer should have a financial interest in the conviction of the accused being tried in his court. As you know when the accused is convicted and he is sent to the penitentiary, if only for ten days, the State pays the cost of the conviction, which pays all the fees of all the officers having any official connection therewith. Those officers should receive adequate salaries for their services and not have a financial interest in the conviction of the accused.

This is one of the things I have striven for more than forty years and have in the main failed. Except in my own and one other county I have never been able to accomplish the destruction of the fee system.

Let me urge that you eliminate it from our criminal administration in Alabama.

I wish to direct your attention to another matter that has been called to the attention of each Legislature that it has been my privilege to address, that is the important matter of re-apportionment of representation in the Legislature. Under our Constitution, as I read it, this a mandatory duty of the Legislature.

XX

STATE OF ALABAMA

PUBLIC WELFARE

1935-1939

Alabama's State Department of Public Welfare, created at the beginning of this administration, made it possible for the State to participate in Social Security benefits for needy people; it incorporated into this enlarged Department those functions discharged since 1919 by the State Child Welfare Department. As a result the State Department of Public Welfare now administers all public assistance and child welfare services and is the agency through which need is determined for benefits derived from Federal agencies such as Works Progress Administration, Civilian Conservation Corps, National Youth Administration, and Federal Surplus Commodities Corporation. Benefits accruing from these services to Alabama's needy people during the last four years total \$72,386,829.37. The three-way distribution of these benefits is represented in the following amounts:

Federal funds.....	\$66,214,364.74
State funds.....	3,856,757.35
Local funds.....	2,315,707.28
Total.....	<hr/> \$72,386,829.37

And mark you those who received these 70 odd millions were selected not by me or my appointees but by local boards appointed by Boards of Revenue, Commissioners Courts and City Governments.

Alabama is the only state in the Union which, through the provisions of its Old Age Assistance Act, receives Federal funds on pensions paid to Confederate Veterans and their widows. Through this arrangement and the legislative provision for the use of the residue of the Confederate Pension Fund, the State of Alabama has received, since June, 1936, approximately two million dollars of Federal funds for its public assistance program without additional cost to the taxpayers.

Almshouses in fifty-two counties have been closed since the establishment of the State Department of Public Welfare. A survey made by the department in November, 1935, revealed that approximately 63 per cent of the Almshouse population of the State was 65 years of age or over, and, therefore, qualified for old age assistance if removed from these institutions. The closing of almshouses enabled counties to divert to the county departments of public welfare appropriations which had been used for almshouse care and to

receive three dollars for one local dollar—one State dollar and two Federal dollars. For example, one county made its almshouse appropriation of \$500.00 per month to the county department of public welfare and received from State and Federal funds for matching these local funds sufficient monies to take care of the almshouse residents who were placed in their own homes or in the homes of relatives and friends and, in addition, to grant financial assistance to 90 aged persons and to 105 dependent children. This progressive action of Alabama in closing its almshouses is an enlightened step which has brought to the State national recognition in the field of public welfare.

Alabama was one of the first states in the Union to have its Old Age Assistance Act and Aid to Dependent Children Act approved by the Federal Social Security Board. Today there are 35,184 persons receiving public assistance in this state, including 15,751 old age pensioners, 16,343 dependent children, and 3,090 blind and other handicapped individuals.

Since the establishment of this new agency of government designed to help people in distress, funds have been made available to the counties which have made possible enlarged participation by these local units in the public welfare program. This investment is an economy well worth the outlay of tax funds for the preservation of the State's human resources.

Alabama has made a sound beginning in the furtherance of human welfare through the enactment of progressive legislation and by delegating responsibility for administration of these laws. This administrative function is effected through the use of a merit system which is acclaimed throughout the country.

To cite the basis on which the public welfare department was founded and the scope of its present activities is to remind this Legislature of its responsibility to keep the machinery of this department flexible enough to go forward with these Federal agencies with which it is so definitely identified and with which it must keep step if the fullest measure of assistance can come to our people.

UNEMPLOYMENT INSURANCE

In Unemployment insurance Alabama has pioneered for the Nation. This keystone of the New Deal met great opposition in courts everywhere when first enacted. Of all the laws passed by the various States the Attorney General of the United States selected the law of Alabama as the one that he would present to the Supreme Court of the United States on this all important question.

XXII

You probably recall that this set-up is supposed to involve some forty billion dollars of resources and many billions annual income, but this lawsuit involved probably more than any other dozen lawsuits combined in the history of the world in magnitude of money involved.

It is gratifying to us that the law finally revised and passed by Alabama was thought by the Washington administration the best to submit to the Supreme Court. As you know that Court upheld the law and with it, we may say, the whole Social Security program of the New Deal.

Until a few months ago all the payments of this agency were made by warrants of the State, which, of course cleared through our Comptroller, Auditor, and Treasury Department. This entailed a great amount of labor and responsibility on those officers, for which the Government gave them some little reimbursement, but not a penny came out of Alabama. There was a great deal of clerical help required that I provided out of the Emergency Fund.

To give you an idea of the magnitude of the work of this single department, it averaged more than seven thousand warrants a day for months. You can understand what that means and represents. A few years ago the whole State of Alabama did not issue that many warrants in a year and this was done every day by this one department.

The expenses of this department's administration by some dozen yard sticks the Government uses in measuring ranks second or third lowest in the Nation. This Department, like all other new departments such as the Re-employment and Public Welfare, operates under a merit system which I think is working satisfactorily, and it has efficiently adjusted itself to the frequently varying policies that the National Administration has tried out before it finally settled on an Uniform Program.

STATE RE-EMPLOYMENT

In the Social Security program the policy is that where an employee of an industry that uses eight or more workers is insured, in case of unemployment he receive certain insurance benefits in proportion to the amount that they and their employers have paid into a fund for that purpose. Before an insured receives insurance benefits he or she must first apply to the Re-Employment Service to get another job. If that Service can place the applicant then there is no insurance benefit paid. If for two weeks the Re-Employment Service fails to place the applicant then the insurance benefit is paid.

XXIII

We made an arrangement with the authorities in Washington whereby our Re-Employment Service would do for all of those who are not in the insurable class the same service required for those in the insurable class. I know of no other State that has done this. We are paying \$45,000.00 a year extra for this service. The overwhelming majority of Alabama citizens are not in the insurable class. For instance, domestic service, agricultural employment, employees of concerns using less than eight people. We had found that our Welfare Department was beset by applicants for relief that could bring all kinds of proof of their needs, so we made the arrangements with the Government that this Re-Employment Service should also extend to all people in Alabama. The result has been that when one not of the insurable class applies for relief he must first go to the Employment Service to get a job. If he gets the job he doesn't need the relief. If he is offered a job and doesn't take it he doesn't get the relief.

Our Re-Employment Service has placed in jobs many thousands more of those not in the insurable class than it has of those who are in the insurable class and the amount of saving to our Welfare Department, in my opinion, is at least a dozen times more than the cost of that extra service.

We have thus eliminated the malingerers and cared for those who were really worthy. This extra service has made our Re-Employment relatively high in its aggregate expenses as compared with other States that confine their efforts to the insurable class only.

RURAL ELECTRIFICATION

In December of 1934, the National Resources Board reported that, while industries had almost universally adopted electricity, agriculture lagged behind because electric service was frequently not available, and it therefore seemed necessary for the Federal Government to stimulate the extension of electric service in many areas.

The 1935 Legislature created the Rural Electrification Authority of Alabama "for the purpose of promoting and encouraging the fullest possible use of electricity in the State". This has been done.

Alabama's rural electrification program has met the tests of County, State and Federal Courts. It has emerged victorious in every case.

But, perhaps a few actual figures will better tell the whole story. Rural Electrification first began in Alabama in 1924. From

Since 1935, at which time the State Authority was organized, 1924 through 1934, private utilities in Alabama had constructed construction, to serve almost 40,000 new customers. Today, instead

XXIV

of 3 percent of the rural residents of Alabama receiving service, about 20 per cent will have electricity available on their farms. This is an increase of nearly 700 percent, and the surface has barely been scratched.

Everyone of Alabama's 67 counties has received the benefit of the rural electrification program through the united efforts of private utilities, the Tennessee Valley Authority and REA.

In other words, three short years ago about 11,000 farmers in Alabama were receiving electric service, but today, lines have been built, or placed under construction, to reach a total of 50,700 rural homes, an increase in three years of about 40,000.

Up to 1935 there were just 2,300 miles of rural lines in Alabama, and today there has been built or placed under construction, a total of 11,700 miles.

It was after the State got busy that private industry really got busy.—This makes for the good of all.

To conclude, electricity is indispensable. For agriculture, it means a higher income. For farm women, it means release from drudgery. For housewives, it means easier and better housekeeping. In the last three years nearly \$5,000,000 of Federal funds has been allotted to Alabama for rural electrification. This has meant that millions of dollars have been spent in Alabama since 1935 for labor, for materials and for poles, which have been obtained from our forests.

To bring these millions of dollars of Federal funds to Alabama has cost the State only 1 percent of the total, a net profit of 99 per cent in cash, and untold benefits in making Alabama farms more pleasant places on which to live and work.

To local dealers in every county, this program has opened a virgin market for the sale of labor-saving electrical appliances. Through the electric radio, the whole world of entertainment and education is brought to the fireside of every farm.

Probably no recent Alabama legislation has aroused the public interest more than the act creating the Rural Electrification Authority, the first program of its kind in the south, and the State of Alabama owes a tremendous debt to the last Legislature which sponsored this program and to her citizens, whose support has made rural electrification in Alabama a success.

XXV

COMPTROLLER

Surely there is no more important or less spectacular department in Alabama than that of the State Comptroller.

Four years ago bonding companies were reluctant to insure our officers because the examinations of their accounts were so many years behind.—The cause of this trouble has been removed—and it exists no more.—As a result of the examinations made by these departments in the last four years more than 900 thousand dollars have been collected in cash and paid into proper treasuries because of errors or delinquencies of county officers and employees and more than a million more is still in the hands of the State Attorney General's office for proper settlement.

The total errors or delinquencies found in examinations of State officers and employees is about 500 dollars which has been paid. This is a most efficient and profitable department.

INSURANCE DEPARTMENT

The State Insurance Department has continuously functioned smoothly and efficiently—yielding a constantly growing revenue to the State.—This is now well over a million dollars.

BOARD OF ADJUSTMENT

Our newly created Board of Adjustment has functioned efficiently—has been a great saving to the State and of great benefit to our citizens—has made remedial justice easily and continuously accessible to all concerned.

INDUSTRIAL DEVELOPMENT BOARD

I am glad to report the revival of Alabama's Industrial Development Board. Its members are of our greatest captains of industry. The fine services they are giving for a sound development of Alabama are of inestimable benefit.

HIGHWAY PATROL

The good that has been done and is being done for Alabama by this new organization is known and appreciated by all—it should be strengthened.

XXVI

JUDICIARY

Alabama has too many courts, too many judges, too much technicality and circumlocution in its judicial procedure. All of this should be remedied by a simplified procedure and the making of fewer judges with higher pay.

I have said to every legislature to which I have been privileged to communicate that a poorly paid judiciary is a poor public economy. Let me again reiterate this fundamental truth.

In criminal law our penalties are intensely excessive. We have too many cases punishable capitally. Nothing, save first degree murder and rape, should be so punished. All other penalties should be materially reduced.

INSANE HOSPITALS

Alabama has in its insane hospital setup, including as it does the feeble minded establishment, the best institution of its kind anywhere. The physical plant of this institution has been quite inadequate to meet the demands of the State but this inadequacy is being remedied. There is in construction more than one million dollars worth of buildings for this institution. Under the law, the Governor has raised the weekly allowance to inmates from three dollars (\$3.00) to three and one-half dollars (\$3.50) and has made available one half million dollars out of the general fund for construction purposes.

I commend to your careful consideration the report of the Superintendent of this institution which is being laid before you.

NATIONAL GUARD

On September 16, 1938, in an official communication, the Commanding General of the 4th Corps Area reported that the National Guard of Alabama reached its highest state of efficiency during this quadrennium. The Alabama Armories Commission, in cooperation with the Works Progress Administration, has constructed 36 armories and 5 target ranges for rifle, machine gun and pistol.

One million, four hundred and thirty thousand, eight hundred sixty-eight (\$1,430,868.00) was approved for armories and thirty-seven thousand, three hundred forty-two dollars (\$37,342.00) for rifle ranges. Additional projects supplemental to those constructed have been approved, bringing the total federal approved appropriation to \$2,221,731.22. This is the first time in the history of the State of Alabama that its National Guard units have had armories adequate to their needs. The increase in personnel and property in

XXVII

the National Guard and the high state of efficiency it now enjoys call for additional financial assistance. I recommend a most careful consideration of the needs of the National Guard and the appropriation of any additional amount necessary to preserve its present high state of efficiency.

BANKS AND BANKING

There are 152 banks and 15 branches under the supervision of the Banking Department of the State. Twenty-nine banks are in process of liquidation. A final settlement has been made in the affairs of fifteen banks in liquidation. There were no suspensions during this fiscal year. I regret that the Department was unable to close the affairs of the twenty-nine banks in liquidation.

No annual report has yet been received from the Building and Loan Department for the year ending December 31, 1938.

LIQUOR

The Alabama Alcoholic Beverage Control Act was passed without my approval. If it is the will of the people that intoxicating liquor be sold legally in Alabama, it is my judgment that the system provided for by the Alabama Alcoholic Beverage Control Act is the best available. From a financial standpoint, the administration of the Act has been an eminent success, and I believe that its administration has been as clean as a hound's tooth. Since its creation on the 2nd day of February, 1937, the Alabama Alcoholic Beverage Control Board has disbursed four million, one hundred seventy-six thousand, three hundred seventy-eight dollars and thirty-five cents (\$4,176,378.35) in net profits to the State, the Counties, and the municipalities of the State for the purposes provided by law. An average of more than two and three quarter million per year has been turned over to the designated beneficiaries.

MUNICIPAL GOVERNMENT

I feel that I should call your attention to one of the greatest problems facing the state at this time—the problem of providing much-needed relief for our city and town governments. The problem deserves your serious and careful and sympathetic attention. The state and county governments through legislation enacted in my two administrations are enjoying financial improvement, but our municipalities without exception are suffering. There should be no partial government recovery; financial improvement should extend all down the line.

XXVIII

During the depression years public services provided for our citizens by the municipalities did not diminish in number or intensity. None of their functions was ever dropped from the list. In fact, demands for new and expensive services—services which a few years ago were undreamed of—were made and received. This condition was occurring at a time when municipal revenues were either static or diminishing.

Changing social conditions have brought new demands upon municipal governments never before dreamed of.—There is no sound reason to expect an early lessening of these demands.—At the same time changing economic conditions have lessened municipal income.—This combination presents an acute situation demanding relief at your hands.

I have examined into the manner in which our municipal affairs are administered, and I can find no quarrel with the results of administration in the past several years. The record is admirable, and city administrations generally, in my judgment, stand far ahead of many other classes of human activity throughout these past trying years. Nowhere in this state has municipal government broken down, although seriously threatened in a number of places. Courageous efforts had to be made to meet the demands placed on municipal services at a time when restricted income and the depression problem of unemployment relief faced municipal administrators. Such a record made under most difficult circumstances is commendable.

My analysis of municipal affairs has convinced me that the ability of our municipal officials to finance out of their present revenues the quality and quantity of programs demanded by their constituents has passed the limits of their abilities to meet. To service their programs during the depression years they were compelled to postpone the day when their municipal debts must be paid. Further delay in effecting amortization plans will do irreparable damage to the credit rating of the state and county governments.

I realize that to have adhered strictly to their debt retirement programs in the past few years would have meant the wholesale elimination of valuable and necessary daily services to our citizens. To have done so would have produced a dangerous result. We can easily imagine what would have been the result of the abandonment of such a service as street lighting. Our highways and streets would have become a haven of criminal activity and reckless driving. If garbage and trash had been collected less frequently, or not at all, disease would have encouraged. If street repairs had been ignored, expensive pavements would have been ruined long before their bonds had been retired. If police forces had been drastically

XXIX

cut and emergency calls answered less quickly, policemen would have been farther away when crimes were committed. Had the fire department forces been diminished fire losses would have mounted, and fire insurance rates would have become prohibitive. Such conditions would have cost our citizens and taxpayers money, and more important than that, they may have cost many of them their lives.

In view of the fact that the ability of municipal government to raise necessary revenue to finance its operations is seriously restricted and limited, the remedy for this growing problem must necessarily come from the state government. I strongly urge you to give favorable consideration to measures designed to correct many of the financial ills of municipal government and I recommend whatever action is necessary on the part of the Legislature to bring this needed relief.

I am causing to be placed at your disposal in addition to the reports that I have touched upon the following:

The Attorney General's Report. In this report you will note that in the last decade there had been a continuous increase in homicides, robberies, rape and carnal knowledge until two years ago. But in these last two years, the increase has stopped and a material decline has set in. It is my opinion that a vigorous enforcement of the major penalties is having the desired deterrent effect.

The State Treasurer, the State Auditor, the Department of Agriculture and Industries, Department of Archives and History, Department of Conservation, the Bridge Commission, State Mine Inspector, Real Estate Board, Aviation Commission, the State Service Commissioner, State Planning Board, Public Works Board, the Labor Department and the State Docks Commission.

I direct your attention to the fact that the reports of the Boys Industrial School, State Training School for Girls, Boys Reform School for Negroes show these plants have been largely expanded. The School of Trades at Gadsden has been practically doubled. Also the report of the Vocational Training School for Girls and the School for the Deaf and Blind.

I also call your attention to the reports of the Secretary of State, the Milk Control Board and the Commission of Forestry. Also to the reports of the Parole Bureau, which has made a start on finding places for worthy convicts, the report of the Public Service Attorney and the report of the Public Service Commission. This last report will show a constant regard for the interest of utilities under their administration and of the interest of the people. They have reduced telephone charges more than \$200,000.00 a year and render many other important services to the public.

XXX

FREIGHT RATES

One of the most promising and far-reaching developments of the quadrennium closing is the fight led by Alabama for the elimination of freight rate discriminations against our products moving into the major markets of the Nation. We have already won, in what is known as the Coke Case, a fundamental principle, which, when carried through, will remove our disadvantages.

The leadership in this old pending case came to me in April, 1935. We abandoned all sectional arguments and adopted a nationalistic policy, succeeded in showing that the manufacturers north of the Ohio River were losing the international trade of the country because they could not get their fuel supplies upon a competitive basis because of this arbitrary freight handicap. So we showed that it was to the interest of the consumers of the North itself as well as to the interest of the whole Nation that free interchange of commodities be brought about. We won that case before the Interstate Commerce Commission on that basis by a vote of five to four, and had a strenuous rehearing that we won by the same vote. We won it again in an injunction proceeding in the Federal District Court of the Northern District of Illinois; a fourth time before the United States three-judge Court in Chicago; and the fifth and final time before the Supreme Court of the United States.

Let me call attention to the fact that the outstanding champions of this nationalistic—not sectional—contention were Mr. Eastman of Massachusetts and Mr. Lee of Idaho, members of the Interstate Commerce Commission.

Now just a word as to its effect. Within a few days after the time for rehearing of the Supreme Court decision what is known as "Pittsburgh Plus" inevitably passed out of existence, "Pittsburgh Plus" and freight differentials had not only eliminated the advantage of every natural resource of Alabama in its great mineral districts but it had put a handicap on our Alabama labor, which had to work for wages low enough, as compared with the wages of their competitors, to absorb not only "Pittsburgh Plus" but freight rate differentials too, before the product of their labor could reach competitive markets. This labor handicap was some 70% of what their competitors in rendering like services received in other sections.

Another effect of this victory is shown in the fact that before we won this case the percentage of production of steel in the Birmingham District was in the twenties, the lowest in America. As soon as this handicap was removed and our products began moving north of the Ohio River, Alabama's percentage of production mounted and mounted until it became the leading percentage in the

Nation. Instead of now being in the twenties, it is now in the nineties, and in the last increase of miners' wages, which came after this victory, the Alabama miners got the full advance that was given to other like employees in the Appalachian regions, Pennsylvania, West Virginia, etc. Their earning power is now more than enough to keep them even with the commissary and make them an asset to the economic life of the community.

In the present pending cases in which Alabama has the leadership there are other classifications involving the same principles and we are fighting these on the same nationalistic—not sectional—lines.

In the cases I have filed before the Interstate Commerce Commission I have clients of record of leading concerns in Chicago, New York, Philadelphia and Baltimore, who have joined in the contention that the consumers of America are entitled to buy whence they can without man-made handicaps. This, of course, carries with it the corollary that we producers can sell where we can without man-made handicaps.

I have every reason to believe and do believe that if this fight is let alone, permitted to pursue its present course on nationalistic and not sectional or political lines, with the support of the consumers of the great northern buying country that we are going to win it because the principals are just the same as laid down in the Coke Case, and when we say "Coke" we mean such things as go in an open gondola like coal, coke, iron bars, pig iron, etc. And when we win these it will have the same effect on all our producers and processors and manufacturers that the "Coke Case" has had on the coal, iron and steel industry.

I believe that in no other way can the South come into its own and reap the full fruition of its natural God-given advantages, material and human, except through the elimination of these discriminations.

No part of the world has combined natural and human resources greater than Alabama. No people should be happier, healthier, richer or more enlightened than this people in Alabama. With all these inducements, we are at the bottom instead of the top in so many of the things that make for the fullness of life. The reason is that we have, through the years, neglected the fundamentals on which all progress must be based—the human welfare of our people.

Statisticians tell us that it costs twenty-three times as much to raise a human as it does to raise a horse. If so, it costs over \$3,000.00 to raise a human. Government statistics tell us that there

XXXII

are more than three hundred thousand Alabamians living in other states in excess of the number of people from other states and countries that live in Alabama. We have lost in the interchange more than three hundred thousand humans that cost us more to raise than is the assessed value of all the property, real and personal, in Alabama.

Not only has the production of these people who have gone to develop other sections cost us this billion and odd dollars in production cost but they have carried with them every penny of patrimony that their people had accumulated.

That is why Alabama is poor. Living conditions in rural Alabama have been such that hundreds of thousands of parents were unwilling to raise their children where health conditions jeopardized life, where no educational facilities were available, no roads, none of those governmental agencies like home demonstration agents, home economics, child welfare, old age pensions and all the whole gamut that makes for human welfare were missing.

Now we have gone to the foundation. In this administration, we have given Alabama the greatest road and bridge program in the Union. We have established public health service in every county of our whole State, and mark you, there are only two other states in America, Delaware and Maryland, that have this service. We have home demonstration agents, home economic service, a complete set-up of welfare department in every county, the fastest expanding Rural Electrification of any state, and we are, therefore, convinced that this tide of emigration that has made us about the poorest state where we should be the richest has stopped and is already turning the other way.

If we will but "keep on keeping on" taking care of the human resources, realizing that no available wealth comes except from human energy, Alabama will continue onward and upward faster than any other State in the Union.

Among the most important things that have been done to anchor our people to our soil is the exemption of homesteads from all State taxation. This should be immediately extended to complete exemption from all other ad valorem taxation. If we can but make home owners of every worthy family, Alabama will have an anchor to windward that will keep our old ship of State forever from drifting on any shoals of socialism or any other un-Americanism.

have already brought material and social benefits. Our economic conditions are better than since the peak of prosperity ten years ago. Our mercantile interests are showing a healthy continuous

XXXIII

about 2,300 miles of rural lines, serving approximately 11,000 customers, which was a little over 3 percent of the farms in Alabama.

It is known of all that those foundations that have been built approximately 9,400 miles of line have been built or placed under increase as is demonstrated in continuous growing receipts of the State from such taxes as luxury tax, tobacco tax, gasoline tax, tonnage tax, freight car equipment and kilowatt tax and by every recognized barometer of prosperity.

Greatest of all of the influences that have brought about our rehabilitation is the New Deal and the New Dealer in Washington. Alabama has cooperated to the utmost in all of its program. We have profited some four hundred million dollars in the last quadrennium thereby.

Let me, above all things, urge that our State "keep on keeping on" keeping step with our Nation and with the Democratic progressive administration of the Nation.

Let me express to you the conclusion of long careful study on the trend of government.

There is too much government in our Nation and in our States. There is too much concentration of power in few hands. There is too much machinery between those that govern and those that are governed. Every citizen should have a practical access to the officers who exercise authority over him.

There is too much power in the hands of executives throughout America.

In Alabama there is more power in the Governor's hands than is good for him or safe for the people. Their government should be brought closer to the people through local machinery of their selection.

The greatest jeopardy of human liberty, as I see it, is the yielding of representative bodies of powers inately theirs that should be maintained by them and never delegated to any other Department, especially not to the Executive Department.

—Bibb Graves.

XXXIV

MESSAGE OF GOVERNOR FRANK M. DIXON

To the Legislature of Alabama:

Under our system in Alabama, with the absence of any platform adopted by a convention, the platform of the successful candidate for Governor becomes a covenant to be carried out by the legislative and executive branches of the government.

The interim between my nomination and inauguration has been used, as you know, in studying the affairs of our State. With these studies, and with most of the recommendations resulting therefrom, the members of the Legislature have already been made familiar. My function is executive and administrative, and yours is legislative. From the recognition of a partnership in a joint task that exists between us today, I feel that great and lasting good will come to our people. It will be my unswerving purpose to cooperate in every proper way with you, to the end that you may always feel that the executive office is occupied by one who understands your problems, who sympathizes with them, and who earnestly desires to be of any service in his power.

I have very definite recommendations to make, some of them involving constitutional amendments. Since this session of the Legislature will, in the nature of things, be a split session, I recommend that action on the suggested constitutional amendments be delayed until the recess of the general session, at which time I plan to call you into special session to consider them. Among others, there will be submitted for your consideration at that time amendments to provide for biennial sessions of the Legislature, for the installation of a modern system of parole and probation, for the two-year cumulative poll tax, for the permissive use of voting machines, for the creation of an automatic system of legislative reapportionment, and for the refinancing of a certain portion of our bonded indebtedness. Under our Constitution, amendments cannot be voted on until after ninety days following the final adjournment of the session which submits them to the people. By having them submitted at a special session called for that purpose during the recess, the Legislature can consider necessary legislation based upon the wish of the people as expressed at the polls.

A study of our governmental set-up shows that in Alabama we have some one hundred fifteen different boards, bureaus and governmental agencies, nearly all of them entirely disconnected from the others, and operating as small independent governments. This was not an unusual condition a generation ago. Many of the other states have already faced the problem of bringing order out of chaos, and have gone along way toward modernizing and render-

ing efficient their state governments. The effect of our present system, of course, is greatly to increase the governmental costs through inefficiency in operation of the departments. Following my platform commitments, and after careful study, I wish to recommend to you certain administrative changes. They do not go as far as we need to go in reorganization and consolidation, but they do go as far as is considered advisable at this time. We can count on subsequent legislatures to follow up our work.

THE MERIT SYSTEM

Under our present system, the chief duty of the Governor of Alabama is running an employment agency. Many thousands of applications are on file for places; each applicant has a right to come and present his claim in person, and it is humanly impossible for the Governor to act for the best interest of the State in patronage matters, even assuming that he spends his entire time attending to that. Those presently employed have absolutely no security of tenure, and must spend a large portion of their time thinking of and working for the retention of their jobs. Further than that, unless a candidate for Governor has unusual powers of resistance, by the time he is nominated the key positions in the State are likely to be traded away as a result of political pressure, and the people thereby betrayed. The morale of the public service in Alabama is at an extremely low ebb, and in my opinion it always will be so long as the Spoils System prevails. Employees are subject to forced contributions, are forced to become political parasites, and are forced to sacrifice their consciences at the whim of any irresponsible political department head who happens to be in power. There is a tremendous loss in efficiency, greatly increasing the costs which the people of Alabama can ill afford to bear, as a direct result of our present Spoils System. I recommend that it be destroyed, root and branch, and that a merit system be enacted with the knowledge that though such a system is not perfect and cannot be made perfect, it is still a thousand times better than the system which now prevails.

Without the Spoils System, no political machine can be built, and the Governor will have time to devote his attentions to the welfare of the people of the State.

A bill has been drafted and will be presented to you establishing the merit system for State employees. I recommend its adoption.

XXXVI

TAX DEPARTMENT

The Tax Commission has not functioned as a commission. As is usually the case with administrative boards, it has been run by one man, and the present set-up simply requires that two Commissioners, not functioning as Commissioners, be kept on the payroll at large expense. The Tax Commission should be abolished and the office of Commissioner of Revenue be created to take its place, with salary increased sufficiently to enable me to secure a good man for the place. By this change substantial savings will be brought about.

Such other changes as are necessary to bring efficiency and economy do not require the enactment of legislation, but can be accomplished through proper administration. It is my opinion that not less than \$300,000 per year can be saved in the operation of the department without the sacrifice of efficiency. These savings will be made. A bill has been prepared abolishing the Tax Commission and creating the office of Commissioner of Revenue. It will be submitted for your consideration. I recommend its adoption.

HIGHWAY DEPARTMENT

The Highway Commission has not acted as a commission. It has been run by one man, with two other Commissioners on the payroll, but not functioning as Commissioners. It should be abolished and the office of Highway Director created, with sufficient pay to enable me to secure the services of a competent Highway Director.

Such other changes as are necessary to make the Highway Department a functioning organization, and to bring about the necessary efficiency and economy, can be installed administratively. It is my opinion that we can save in salaries alone in the Highway Department not less than \$300,000 annually, and can add to that a large amount of savings through cutting down expenses. A bill has been prepared abolishing the Highway Commission and creating the office of Highway Director. It will be submitted for your consideration. I recommend its adoption.

XXXVII

DEPARTMENT OF FINANCE

I recommend the establishment of a Department of Finance, having within it at least the following divisions:

1. A Division of Purchases and Stores, constituting a central purchasing agency through which all supplies for the State and its institutions and agencies should be bought. Local governmental subdivisions should be invited to use the facilities of this agency. If they do not desire to do so, the counties should be required to report monthly all purchases amounting to more than one hundred dollars.

2. A Division of Budgeting. This division should prepare a detailed budget for every departmental operation and carry on the functions proper to a budgeting agency.

3. A Division of Service. This division should provide a central mailing service, a messenger and telephone service, and a clerical and stenographic pool, and should maintain a permanent inventory of all equipment.

4. A Division of Control and Accounts. This Division should keep the State's accounts and draw warrants for all sums due by the State.

5. A Division of Local Finance. This division should post audit the counties, and serve as the State's agency for financial supervision of municipalities and counties.

Under this set-up, the financial affairs of the State will be drawn into one department, the head of which will be one of the chief staff officers of the Governor. Much of the work outlined in this new department is already being done by scattered departments. The Division of Service is new, and supplies services which are greatly needed under our system today. It is estimated that there will be substantial savings put into effect by the creation of these divisions and certainly there will be a tremendous increase in efficiency.

The duties of post-auditing, which are now performed by the Comptroller, properly should be done by the Auditor's office.

Bills putting into effect the system herein outlined have been prepared and will be submitted for your consideration. I recommend their adoption.

XXXVIII

DEPARTMENT OF CONSERVATION

Under the head of Conservation at this time we have the Department of Conservation of Game, Fish and Sea Foods, the Alabama Oyster Commission, and the Commission of Forestry. A five million dollar system of parks has been installed by the Federal Government and placed under the Forestry Department; it is being neglected. There is no adequate effort being made to assist the owners of small tracts of timberlands, nor is there any comprehensive program of conservation in effect.

Our State is rich in possibilities, and every penny spent in conservation work will bring back dollars in return to our people. It is recommended that the work being done be coordinated under a Department of Conservation, sustained by the present ear-marked funds, and that to these funds be added appropriations sufficient to finance an adequate program of conservation. A bill to establish this department has been prepared and will be submitted for your consideration. I recommend its adoption. Under it the work is divided into the Division of Game, Fish and Seafoods, the Division of Forestry, and the Division of State Parks, Monuments and Historical Sites. As to the State Parks, an appropriation for the first two years will be necessary, after which they can be made self-sustaining and capable of carrying a part of the costs of the Department.

No loss in funds from Federal sources will result from the creation of this Department as outlined.

DEPARTMENT OF PUBLIC WELFARE

The present Department of Public Welfare covers only a small field of the welfare problem. Other portions of that field have to do with the operation of prisons, the operation of the Pardon and Parole System, and the operation of the eleemosynary institutions. At present the work is not coordinated.

I recommend the establishment of a Department of Institutions and Public Assistance having within it the following divisions:

1. A division of Public Welfare to take over the duties of the present Department of Public Welfare.
2. A Division of Corrections to take over the functions of the present Convict Department.

XXXIX

3. A Division of Probation and Parole, to have charge of the supervision of parolees and probationers under a modern system of pardon and parole.

The Director of the Department should act as a coordinating agent for the presently existing eleemosynary institutions, without interfering in their actual management.

It is believed that some savings in costs and a great increase in efficiency will result through the creation of this department. A bill has been prepared to be submitted for your consideration, and I recommend its enactment.

No loss of any Federal funds will result from the creation of this Department as outlined. The Federal authorities involved have already been consulted and have so advised me.

Separate from but operating in connection with the Department of Institutions and Public Assistance there should be a Board of Pardon and Parole, appointed by the Governor. This will require a constitutional amendment, and I will make a recommendation concerning it later.

It should be understood that under no circumstances are the functions of the present Department of Public Welfare to be consolidated with the work of the present convict department. The integration within one department is purely for the purpose of coordinating all work properly within the field of public welfare, accords with the best modern thought on this subject, and will have the effect of bringing our state in line with those others which in the last few years have made similar changes.

DEPARTMENT OF INDUSTRIAL RELATIONS

Matters dealing with the relations of employer and employee are now handled by four state departments, namely, the Unemployment Compensation Commission, Employment Service, Department of Labor, and the Insurance Commissioner, who administers the Workmen's Compensation Law. The work is not coordinated. For the sake of both employer and employee, a Department of Industrial Relations should be created consisting of at least the following divisions:

1. The Division of Unemployment Compensation and Employment Service. The Social Security Board in Washington recommends consolidation of these departments for the sake of both economy and efficiency.

XL

2. The Division of Workmen's Compensation. This division should take over the work now supposed to be done by the Insurance Commissioner with reference to the Workmen's Compensation Law.

3. The Division of Mediation and Conciliation. This division should take over the work now being done by the Labor Department.

4. The Division of Safety and Inspection. This division should handle all inspection work.

5. The division of Statistics and Research. The duties of this division are apparent.

Associated with the Department there should be a Board of Appeals, to pass finally on proposed safety codes and to hear appeals from the ruling of the Unemployment Compensation office.

This Department should be headed by a Commissioner paid enough to enable me to procure the best man in Alabama for this work.

In this connection attention is called to the fact that the enforcement of the Wages and Hours Bill locally is expected to be placed under the labor departments of the various states. It is my conception that the head of this department should represent neither employee nor employer, but the people of Alabama. Both efficiency and economy can be brought about by the creation of this department, a bill to create which has been prepared and will be presented for your consideration. I recommend its passage.

It has been submitted to and approved by the attorneys for the Social Security Board in Washington, and is entirely in line with what is believed to be the best thought in the nation with reference to this Department.

DEPARTMENT OF COMMERCE

I recommend consolidation of the work being done by the present Banking, Building and Loan, and Insurance Departments into the Department of Commerce with three Divisions, one of Banking, one of Building and Loans, and one of Insurance. Some saving will be achieved thereby together with an increase of efficiency of operations. A bill has been prepared creating this department, which will be submitted for your consideration. I recommend its adoption.

XLI

ALCOHOLIC BEVERAGE CONTROL BOARD

Alabama has been exceedingly fortunate in the operation of the State monopoly system of liquor control. Nearly all of the changes which are essential can be made administratively. The most necessary changes are to bring about a tightening of the administration of the licensee provisions of the law, and to supply a greater degree of enforcement to dry counties. This can be done administratively, and will be done.

Suggestions as to minor amendments to the law will be made later, if deemed advisable.

DIVISION OF LEGISLATIVE SERVICE AND LEGISLATIVE COUNCIL

One of our greatest lacks in Alabama is planning. Under our present system the Legislature has no tools with which to work; no organization on which it may rely for information; no assistance of any kind in the performance of its duties. I recommend the establishment of a Division of Legislative Service, charged with the duties of studying the operation of our laws, making such other studies as may be demanded, drafting legislation at the request of members of the Legislature, and cooperating in every way with the Legislative Council. I also recommend the establishment of a Legislative Council composed of a limited number of members of the House and Senate and charged with the functions of suggesting research studies to the Division of Legislative Service, examining the effects of constitutional provisions and statutes and recommending amendments, and preparing such a legislative program as the welfare of the State requires. In this manner we can bring about some planning for the State and greatly assist the Legislature in its work. A bill has been prepared bringing about these results. It will be submitted for your consideration, and I recommend its adoption.

STATE DOCKS

As is usual with administrative boards, the State Docks Commission has not operated as a commission. One member has been forced to assume charge, to make decisions, and to operate the Docks. Jealousies and friction brought this condition about, and the business of the Docks has suffered.

A bill has been prepared eliminating the Docks Commission as an administrative board and substituting for the system established by the present administration, a manager who reports direct to

XLII

the Governor, with an advisory committee charged with the function of assisting and advising with reference to the operation of the Docks. I recommend its passage.

TAXATION

The volume of taxes produced by our tax laws depends nearly entirely on economic conditions. These no man can foresee. Any claim of credit for prosperity is absurd.

Our people are already heavily taxed, in proportion to their wealth. Of necessity they must be, since it is from our wealth that taxes come, and we want government services comparable to those given the people of richer states.

I do not advocate the enactment of any new tax bills.

The sales tax must be reenacted. Otherwise, our schools will close, our extension, health and welfare work suffer, and our home-stead exemptions cease. Its reenactment should carry with it the abolition of most of the present exemptions, which are a fruitful source of evasion. Much money now being paid is not reaching the Treasury of the State.

The short school term and the financial plight in which our cities find themselves is largely caused by a fatal defect in our system of ad valorem assessments. Alone in the United States we have voluntary assessments. Our minimum program school law puts an incentive to the lowering of local assessments; the state money going to the average county relieves the necessity of keeping assessments up to a reasonable figure, and further increases the incentive to pass tax burdens to our neighbors. Due to changed conditions the Boards of Review no longer function adequately, and unless changes are made we are surely and steadily heading into an extremely serious situation.

Land taxes in Alabama are not high in comparison to comparable states. They are low.

If assessments were fairly made today and no favoritism were shown or evasion permitted, the problem of the cities and schools would be solved.

Legislation has been prepared to reenact the sales tax without most of the exemptions, and to correct the irregularities and injustices in our assessment system. I recommend its enactment.

There will, in addition, be presented bills to correct inequalities and injustices in the various tax laws which should be passed.

XLIII

Thereafter, I suggest that you join me in praying for continued prosperity. With it, all will be well. Without it, of necessity all government services will suffer.

THE SCHOOLS

Into the school problem enter various factors. A solution satisfactory in 1910, 1920, or 1930 would not satisfy us under the changed conditions of today. Our per capita wealth and income are less than one-half the national average. We have one-third more children than that average. We have the negro problem. Our tax rate, proportionately, is among the highest. The National Education Association and the President of the United States, together with all others who have tried to analyze the problem, admit that it is not possible for us to pay for a defensible school system out of our resources. Yet our children are the most valuable heritage that we have and must be educated. What, then, is the solution?

My study of the school situation clearly shows that the Department of Education, in dispensing the money entrusted to it for school purposes, is giving a dollar's value for every dollar we spend. The per capita expenditure for the education of a child in our state is about one-third the national average, and a good job is being done. We have every reason to be proud of the results being achieved by the school people of our state, with the limited funds at their disposal.

In the section of this message dealing with taxation I have mentioned the problem caused by the lowering of the ad valorem assessments. The Minimum School Program requires that certain millage taxes be levied by the counties, but it does not set any level of assessments. The taxing authorities in certain counties have seen that the millage taxes are levied and then have simply lowered their assessments, calling on the state to make up the deficit thus caused. The state is already paying 53 per cent of the total cost of the school system, a proportion far greater than that of any other southern state with the exception of North Carolina, and there is a continual incentive to further lower the local assessment rates and thereby further shift the load on to the shoulders of the state, which means on to the shoulders of their neighbors.

The drop in ad valorem assessments, or in other words, in local taxation, is responsible for the short terms of our schools and the low salaries of our teachers. That situation must be remedied or it will become increasingly worse.

As I have stated in that portion of the message dealing with taxation, the sales tax must be reenacted. Without it the schools

XLIV

cannot operate. The exemption in the sales tax are a fruitful source of evasion, and a large amount is being paid by the people of Alabama in the form of sales taxes which is not reaching the Treasury. The reenactment of the sales tax without the majority of the exemptions, will result in a substantial additional sum to be appropriated to the schools and will, in my opinion, bring in a sufficient sum to enable our schools to operate for eight months without the imposition of any new levies, assuming that the scale of teachers' salaries remain as it was in the last school year.

The income tax is earmarked specifically for the retirement of bonds, and thereafter for the reduction of land taxes. The bonds are not callable and run for many years. As a result of the belief that the excess revenues above bond requirements could not be used for other purposes, these bonds have risen in value until the people of Alabama are paying a large premium to retire them.

At the time of the adoption of the amendment, it was contended that there was an outstanding debt owing to the schools of about three and one-half million dollars above the amount paid. It was further contended that the law permitted the use of the excess return from the tax over the bond requirements for other purposes. If the first of these contentions is true, then these three and one-half millions can be paid to the schools out of the excess over the requirements. If the second of these contentions is true, then there would be released annually to the schools an amount which would go far toward solving their needs. The opinion of the Supreme Court should be secured immediately as to the validity of these contentions. Should the Supreme Court rule that the excess of the income tax over the bond requirements can be used for schools, then a reasonable increase can be secured for the salaries of our teachers, and an emergency solution, without emergency taxes, can be reached.

Federal assistance, based on need, is essential to us, as it is to all southern states. Our wealth is not sufficient to maintain a defensible school system, and many of our young people find their future in other lands. Equalization is as necessary nationally as it is locally, and every effort will be exerted by me to secure the recognition of this principle nationally. I recommend the adoption of a joint resolution requesting our representatives in the Congress to work to this end.

ELECTION CODE

A study of our election laws indicates that there is considerable division of responsibility throughout the system and a lack

XLV

of provisions adequately placing responsibility. The election laws have never been codified.

At my request a committee of capable Alabama citizens prepared a suggested election code. There are some matters in the code, such as the provisions regarding voting machines, and the provisions regarding the absentee ballot law changes, as to which there should be a nearly unanimous agreement. There are other suggested changes which might be controversial. I am particularly anxious, in view of the peculiar situation prevailing in our state, not to do anything which might have an unfortunate effect so far as the registration of our people is concerned. The suggested election code has been carefully worked out, and in all probability contains much that will appeal to the members of the legislature. It will be presented with the idea that the members of the Judiciary Committee of both Houses will give it their very careful consideration, and that you will adopt what you think wise, and reject such changes as in your opinion might endanger our system.

STATE PLANNING COMMISSION

The Legislature in 1935 created the State Planning Commission, charged by law with very important functions with reference to planning the economic and physical development of the state. However, no appropriation was made to vitalize this Commission. It is capable of rendering very valuable services to our people. I expect to recommend some modification in the composition of this body, to ask a small appropriation for it, and to lend to its membership the full cooperation of this office in every proper way.

RETIREMENT OF JUDGES

The matter of providing for the optional retirement of aged judges has been a much discussed question in late years. Quite a number of states have provided an optional retirement or statutory offices with lightened duties for judges who have served a certain number of years, and have reached an advanced age. The Federal Government has set the standard for this type legislation, by providing among other things, that any district, circuit, or Supreme Court Judge who has served ten years, and has attained the age of seventy years, may become an inactive judge with authority to perform judicial duties.

Individuals differ so greatly that it cannot be said that a man becomes incapacitated at any specified age. Our nation has had the glorious example of a brilliant judicial mind functioning at the age of ninety years, and we could probably discover men under the age of sixty who are no longer capable of performing judicial duties. But whatever exceptional men may be found, it is believed that in

the ordinary course of things, there will be some judges who have attained the age of seventy years, who do not feel fully able to perform their duties, but who are compelled to remain in office, or seek reelection to it, to meet the necessities of their daily existence. Usually their conduct of the office has been with such manifest integrity, and the esteem in which they are held by the people is such that they are returned to the office upon the mere announcement of their candidacy. Frequently they are so loved by members of the Bar, and the people generally, that they have no opposition to their candidacy. The aged judge faced with the choice of want on the one hand, or of struggling as best he can with the strenuous duties of an office he perhaps feels unable to perform, can only be expected to choose the latter alternative. The result is unfortunate both in the strain and burdens which must be borne by the judge, and in the reduced efficiency of the courts.

I recommend the passage of an Act providing that any judge of the Supreme Court, Court of Appeals, or Circuit Court, who has served ten years and who also has attained the age of seventy years, be given the option to become supernumerary judge of this State, to hold during good behavior, and to receive the same compensation as he received in the office from which he retired, and with the duty to render such assistance in the circuit courts, the Court of Appeals, and the Supreme Court, as he may constitutionally perform, and as he may be directed by the Governor, the Chief Justice of the Supreme Court, or the presiding Judge of the Court of Appeals. In the ordinary case, the compensation cannot be payable very long. The benefit of the wisdom of his years, and the use of such services as the supernumerary judge is able to perform, would be available to the State, his duties would be lightened, and the cause of justice would be promoted.

It is my belief that the number of judges who at any one time would be eligible to avail themselves of the privilege to become a supernumerary judge, or who would avail themselves of the privilege, would be but few, that the additional expense to the state would be very small, and that the benefits to the state would far outweigh the small additional expense. In addition, such an Act would tend to make judicial office more attractive, and hence would tend to stimulate the aspirations of the ablest and most experienced members of the Bar to judicial office.

REAPPORTIONMENT

The reapportionment problem has long vexed Alabama, as it has many other states. I regard the problem as one which must be solved. As long as those of us who have been elected to make and

XLVII

enforce the laws ignore the Constitution which we are sworn to uphold, I fail to see how we can in good conscience ask obedience on the part of others. There has been prepared a reapportionment bill, in line with the present constitutional provisions. I recommend its adoption.

At the special session there will be submitted to you a reapportionment amendment to provide for automatic reapportionment in the future.

RESTORATION OF CONFIDENCE IN GOVERNMENT

In the campaign which resulted in my delivering this message to the Legislature, one of the key notes was expressed in the following words:

“Alabama’s greatest need today is a full restoration of public confidence in its state government.”

In that campaign certain practices prevalent in our state government were condemned.

1. The use of pardons and paroles for political purposes was condemned. As to this I expect to ask the Legislature to strike down the practice to set up a non-political board and to deprive the Governor’s office of every right with reference to pardons and paroles, with the exception of the commutation of death sentences. This is a matter requiring a Constitutional amendment and will be later submitted.

2. The packing of the state payrolls with useless employees maintained in idleness at public expense was condemned. Insofar as this can be prevented by executive action, that action will be taken. Insofar as legislative action is necessary, that action will be asked.

3. Hiring members of the Legislature for the purpose of dictating legislation was condemned. That practice will not be engaged in.

4. Building a political machine with state jobs to perpetuate officers in office was condemned. I am asking that a merit system be installed so that this practice may be permanently done away with.

5. Paying large fees and retainers to political favorites was condemned. I recommend that law officers of the state, except in cases presenting special circumstances, do the legal work of the state.

XLVIII

6. Selection of state employees on a basis purely of patronage rather than merit was condemned. I recommend the establishment of a merit system to restore efficiency and self-respect to state employees.

7. Secret political campaign promises and trades to secure election were condemned. There are none in existence now and the establishment of a modern pardon and parole system, and a merit system for state employees will have a large effect in destroying the practice for the future.

The question of efficiency in government depends largely upon the selection of the personnel. A bad system can be made good by good men and women. A good system can be made bad by a poor selection of those charged with its enforcement. Give me the right to pay salaries sufficient to secure the services of competent and honest employees for the state, and I will guarantee the restoration of confidence in the government of our state. The public payrolls must not be used for the relief of the indigent. One employee adequately paid is infinitely more valuable than several poorly paid and dissatisfied servants of the state. One employee with security of tenure is more valuable than many who are dependent upon political guess work for their futures.

The day of class legislation is over in Alabama.

The day of special favors to special groups is over in Alabama.

The day when confidence in the government of our state shall be restored has come in Alabama.

Such other matters as are of importance will be the subject of special messages from time to time during the course of your session.

In conclusion, let me express to you my deep and heartfelt appreciation for the kindness and courtesy which you have extended to me in our conferences, in our relationships, in these months when we have been considering our problems. I like to feel that the members of this Legislature are my personal friends, each and every one of you. The latchstring is on the outside of my door for you, and you will find that I am willing to go far to compose any of those differences which normally arise between men of independent thought.

May the Lord of Hosts, master of the allegiance of all of us, guide and direct you in your deliberations for the welfare of our people.

—Frank M. Dixon.

GENERAL LAWS

No. 3)

(H. 15—Jones

AN ACT

To make appropriation of Three Hundred Thousand Dollars (\$300,000.00), or so much thereof as may be necessary, out of any funds in the State Treasury not otherwise appropriated, to defray the expenses of the present session of the Legislature.

Be it Enacted by the Legislature of Alabama:

Section 1. That there is hereby appropriated, out of any funds in the State Treasury not otherwise appropriated the sum of Three Hundred Thousand Dollars (\$300,000.00), or so much thereof as may be necessary, to defray the expenses of the present session of the Legislature.

Approved February 1, 1939.

No. 4)

(H. 29—Quarles

AN ACT

To create the State Department of Revenue, the chief executive officer of which shall be known as the Commissioner of Revenue, who shall exercise all powers, authority and duties thereof. To define its duties and powers: to transfer and confer upon the State Department of Revenue all the powers and duties now vested by law in the State Tax Commission or in the members thereof; to provide for the appointment, qualifications and salary of the Commissioner of Revenue; to abolish the State Tax Commission; and to repeal all laws in conflict.

Be it Enacted by the Legislature of Alabama:

Section I. There is hereby created the State Department of Revenue.

Section II. The chief executive officer of the State Department of Revenue shall be known as the Commissioner of Revenue and all the powers, authority and duties vested in the State Department of Revenue shall be exercised by the Commissioner of Revenue.

Section III. The State Department of Revenue herein created is in lieu of the State Tax Commission, herein abolished, and wherever the term "State Tax Commission" or "State Tax Commissioner" is used in the laws of this State, the same shall mean the "State Department of Revenue." All rights, duties, powers and authority now vested by law in the State Tax Commission and in the members thereof are hereby transferred to and vested in the State

Department of Revenue, and all rights, powers, duties, and authority, whether clerical, executive, administrative, judicial or quasi-judicial now vested by law in the State Tax Commission, or the members thereof, shall be vested in the State Department of Revenue and shall be exercised by it, together with such additional rights, powers, and duties as may hereafter be provided by law.

Section IV. As soon after the approval of this Act as practicable the Governor shall appoint said Commissioner of Revenue, who shall hold office at the pleasure of the Governor. Such Commissioner shall possess the same qualifications heretofore required of a member of the State Tax Commission; and, before entering upon the duties of the office, shall be required to enter into the same bond and execute the same oath of office now required of members of the State Tax Commission.

Section V. The salary of the Commissioner of Revenue shall be fixed by the Governor at an amount not exceeding \$6,000 per annum, to be paid as the salaries of other officers.

Section VI. The State Tax Commission is hereby abolished.

Section VII. If any Section, paragraph, sentence, clause, provision or word of this Act be held invalid by any court such holding shall not affect any other portion of this Act, the Legislature hereby declaring that this Act would have been enacted had such unconstitutional part or parts not been included therein.

Section VIII. All laws or parts of laws, general, special, private or local in conflict herewith are hereby repealed.

Section IX. This Act shall be effective immediately upon its enactment.

Approved February 1, 1939.

No. 5)

(H. 37—McCord

AN ACT

To amend section 6 of an Act entitled "An Act to provide for a public corporation for the purpose of constructing or causing to be constructed public roads and bridges in this State; to prescribe its powers and duties and to provide for the raising of necessary funds for such purpose and to provide for the payment of the cost of construction of such roads and bridges and to borrow money and match Federal funds for public work construction and to issue bonds, warrants, assignments, transfers or securities and to contract with the State Highway Commission of Alabama, the Public Works Administration and any other branch of Federal Government or other authorities necessary to carry out the purposes of this Act," approved September 13, 1935.

Be it Enacted by the Legislature of Alabama:

Section I. That Section 6 of an act entitled "An Act to provide for a public corporation for the purpose of constructing or causing

to be constructed public roads and bridges in this State; to prescribe its powers and duties and to provide for the raising of necessary funds for such purpose and to provide for the payment of the cost of construction of such roads and bridges and to borrow money and match Federal funds for public work construction and to issue bonds, warrants, assignments, transfers or securities and to contract with the State Highway Commission of Alabama, the Public Works Administration and any other branch of Federal Government or other authorities necessary to carry out the purposes of this Act," approved September 13, 1935, be and the same hereby is amended so as to read as follows: Section 6. One-twelfth of the excise tax on gasoline as levied in Schedule 156.1 and defined in Schedule 156 of Chapter Four, Article XIII of House Bill 324 (Act No. 194 of the Alabama Legislature approved July 10, 1935) shall for a period of ten years from the date of approval of this Act be paid over monthly by the State Tax Commission to the State Treasurer of Alabama for the exclusive use of the corporation authorized by this act. The said one-twelfth of such gasoline tax so appropriated to the use of said corporation shall be taken from the part allocated to the State of Alabama under Schedule 156.11 of said Act, and not from the part allocated under said Schedule to the several counties of this State.

Section II. All laws or parts of laws in conflict herewith are hereby repealed.

Section III. This Act shall be effective upon its passage.

Approved February 1, 1939.

No. 6)

(H. 50—Young

AN ACT

To provide that the Commissioner of Revenue shall be ex-officio State Land Commissioner.

Be it Enacted by the Legislature of Alabama:

Section I. The Commissioner of Revenue shall be ex-officio State Land Commissioner.

Section II. All laws or parts of laws in conflict herewith are hereby repealed.

Section III. This Act shall be effective immediately upon its passage.

Approved February 1, 1939.

No. 7)

(H. 75—Wallace

AN ACT

To amend Subdivision V of Section 1 of an Act entitled "An Act to make appropriations for the ordinary expenses of the Executive, Legislative and Judicial Departments of the State, for the interest on the public debt, and for the public schools," approved September 6, 1935.

Be it Enacted by the Legislature of Alabama:

Section 1. That Subdivision V of Section 1 of an Act entitled "An Act to make appropriations for the ordinary expenses of the Executive, Legislative, and Judicial Departments of the State, for the interest of the public debt, and for the public schools," approved September 6, 1935, be amended so as to read as follows: "V. MAINTENANCE AND REPAIR OF GENERAL GOVERNMENT BUILDINGS: 1. Salaries (watchman, servants, etc.,) \$6,825.00; Supplies \$6,000.00; Telephone Exchange \$3,200.00; Lights, power, heat and water \$12,500.00; Maintenance and alterations Capitol Buildings and grounds \$20,000.00; Insurance \$6,000.00; For maintenance and repairs of Governor's Mansion \$1,000.00, for each of the fiscal years ending September 30, 1936-37-38-39, and for light, heat, service and other expenses incident thereto, the sum of \$100.00 for each and every month of the fiscal years ending September 30, 1936-37-38-39, payable on requisition of the Governor; Rental of offices \$1,000.00—\$64,325.00."

Section 2. This Act shall be effective upon approval of the Governor.

Approved February 1, 1939.

No. 8)

(S. 39—Thomas

AN ACT

To authorize the Governor to remove and discharge with or without cause any person who holds office or employment, in any of the state executive departments or agencies, by virtue of appointment by the incumbent Governor or any preceding Governor.

Be it Enacted by the Legislature of Alabama:

Section I. The Governor is hereby authorized and empowered to remove from office and discharge from employment, with or without cause, any person who holds office or employment in any of the State Executive Departments and agencies by virtue of appointment by the incumbent Governor or any preceding Governor.

Section II. If any paragraph, sentence, word, or part of this Act, or the application thereof in any case be held unconstitutional or invalid by any court of competent jurisdiction, then such holding shall not affect the remaining portions of this act, the Legislature

hereby declaring that it would have passed this act, without such invalid paragraph, sentence, word, part or application thereof.

Section III. All laws or parts of laws, general or special, in conflict herewith are hereby specifically repealed.

Section IV. This Act shall be effective immediately upon its passage.

Approved February 1, 1939.

No. 10)

(H. 21—Wood

AN ACT

To create the office of Legal Counsel for the Department of Revenue; to provide for the appointment, qualifications, duties and powers of such Counsel; to provide for the appointment of an Assistant Counsel; to provide for the expenses of such office, and to provide for the salaries of such Counsel and such Assistant Counsel.

Be it Enacted by the Legislature of Alabama:

Section I. There is hereby created the office of Legal Counsel for the Department of Revenue.

Section II. The Governor, as soon after the passage of this act as practicable shall with the approval of the Attorney General appoint a competent attorney as legal counsel for the Department of Revenue, who shall hold office at the pleasure of the Governor. Such legal counsel shall be at least thirty years of age, of good moral and ethical character, learned in the law and experienced in the legal phases of taxation. Such legal counsel shall be commissioned as an assistant Attorney General, and shall in addition to the powers and duties herein conferred have the authority and duties of an Assistant Attorney General except that his entire time shall be devoted to the Department of Revenue. He shall take the oath and give the bond required of other assistant attorney generals.

Section III. Such Legal Counsel shall be furnished with an office by the State Department of Revenue together with necessary stenographic and clerical help, office equipment, stationery, and postage, and shall be allowed reasonable travelling expenses, when travelling on business of the State, all to be paid by the State Department of Revenue, to be charged so far as practicable to the division for which the expense was incurred.

Section IV. Such Legal Counsel, with the approval of the Governor and the Attorney General, shall be authorized to appoint an Assistant Counsel, whose acts shall be recognized as his acts. Such Assistant shall be at least 25 years of age and whose other qualifications and duties shall be the same as those of the legal counsel. Such assistant shall likewise be commissioned as an Assistant Attorney General.

Section V. Such legal counsel and such assistant counsel shall

devote all their time to the Department of Revenue and shall not, during their incumbency in office, engage in the private practice of law. Such legal counsel shall confer with and advise the Commissioner of Revenue on matters relating to taxation. He shall furnish either verbal or written opinions when requested by the Commissioner on questions relating to taxation and to tax laws, but such opinions shall not have the force and effect of official opinions of the Attorney General unless approved by the Attorney General. Such legal counsel shall appear for the State in all matters, in all litigation of the State, involving taxation, both civil and criminal, when authorized to do so by the Commissioner and the Attorney General.

Section VI. The salary of the Legal Counsel and the Assistant Counsel shall be fixed by the Governor and shall be paid out of the appropriation to the Department of Revenue.

Section VII. All laws or parts of laws in conflict herewith are hereby repealed.

Section VIII. If any Section, paragraph, sentence, provision or word of this Act be held unconstitutional by any court of competent jurisdiction, such holding shall not affect the remaining portion thereof, the Legislature hereby declaring that the provisions of this Act are severable and that it would have passed this Act without such unconstitutional part or parts.

Section IX. This Act shall be effective upon its passage.

Approved February 3, 1939.

No. 11)

(H. 28—Hare

AN ACT

To repeal an Act entitled an "Act to authorize the State Land Commissioner, with the approval of the Governor, to contract with some person or firm in each county to investigate sales of real estate for taxes and bid in for the State, to notify parties in interest of such sales, to secure redemptions, to secure sales of property subject to sale at private sale by the State; and to fix the compensation for such services, and to repeal all laws or parts of laws in conflict herewith, and to fix the time when this Act shall go into effect," approved September 13, 1935.

Be it Enacted by the Legislature of Alabama:

Section I. That an Act entitled "An Act to authorize the State Land Commissioner, with the approval of the Governor, to contract with some person or firm in each county to investigate sales of real estate for taxes and bid in for the State, to notify parties in interest of such sales, to secure redemptions, to secure sales of property subject to sale at private sale by the State; and to fix the compensation for such services, and to repeal all laws or parts of laws in conflict herewith, and to fix the time when this Act shall go into

effect," approved September 13, 1935, be and the same hereby is repealed.

Section II. This Act shall be effective upon its passage.

Approved February 3, 1939.

No. 12)

(H. 59—Stone

AN ACT

To create a Department of State Docks and Terminals; To prescribe its powers, authority and duties; To provide for the appointment of a Director of the Department of State Docks and Terminals; provide for his compensation and term of office; To provide for the appointment of an Advisory Board to be known as the State Docks Advisory Board; to designate the number of members of said Board, the method of their selection, their term of office, their method and manner of compensation; their powers and authority; To provide that the State Docks known as the Mobile Port Docks shall be under the supervision and direction of the Department of State Docks and Terminals; To abolish the State Docks Commission; To repeal all laws in conflict herewith.

Be it Enacted by the Legislature of Alabama:

Section 1. There is hereby created a Department of State Docks and Terminals for the State of Alabama, consisting of a Director of State Docks and Terminals and a State Docks Advisory Board as hereinafter provided. The Department of State Docks and Terminals shall supervise, control, manage and direct the State Docks known as the Mobile Port Docks. The said Department of State Docks and Terminals is hereby provided and designated as the agency of the State through which the State shall accomplish the maintenance and operation of all the improvements and facilities authorized by Act of the Legislature of Alabama, approved January 17, 1927, and known as the State Docks at Mobile, Alabama, relating to creation of the Docks Commission, its powers, authorities and compensation, and through which the same shall be managed and controlled by the State.

Section III. The Chief Executive officer of the Department of State Docks and Terminals shall be known as the Director of State Docks and Terminals and he shall be appointed by the Governor and hold office at the pleasure of the Governor. All the powers, authority and duties vested in the Department of State Docks and Terminals shall be exercised by the Director of State Docks and Terminals, who shall be a man of good character and of business experience. He shall have no financial interest in any harbor facilities such as the Department of State Docks and Terminals is authorized to deal with.

Section IV. The salary of the Director of State Docks and Terminals shall be fixed by the Governor at an amount not to exceed six thousand (\$6,000.00) dollars per annum, to be paid as are other sal-

aries of the employees of the Department of State Docks and Terminals.

Section V. There is created a State Docks Advisory Board consisting of the Governor, who shall be ex-officio chairman of said Board, the Director of State Docks and Terminals, who shall be ex-officio a member of said Board and three persons who shall be appointed by the Governor. No two of the three appointive members of said Board shall be residents of the same Congressional district of the State nor shall they have any financial interest in any harbor facilities, such as the Department of State Docks and Terminals is authorized to deal with.

Section VI. The term of office of the three appointive members of said Board shall be for six (6) years. The members of the first Board appointed under authority of this Act shall serve, one for two years, one for four years and one for six years, and thereafter all members appointed shall serve for a term of six years. Any appointive member of said Board may be removed from office by the Governor. If by reason of death, resignation or removal from office, a vacancy shall occur on said Board, the vacancy shall be filled by appointment by the Governor. The appointive members of said Board shall be men of good character and possessed of ability and experience which would qualify them as advisors to the Department of State Docks and Terminals.

Section VII. The three appointive members of said State Docks Advisory Board shall receive fifteen dollars (\$15.00) per day and traveling expenses for each day of attendance upon meetings of said Board, but in no case shall any member receive in excess of one hundred dollars (\$100.00) during any one month.

Section VIII. The Board shall convene upon call of the chairman thereof and a majority of the membership shall constitute a quorum for the transaction of business. The Board shall, when called upon to do so, act in an advisory capacity with reference to any matters coming before or concerning the Department of State Docks and Terminals.

Section IX. The Director of State Docks and Terminals shall have power to fix the compensation and salaries of all employees of the Department of State Docks and Terminals, subject to the approval of the Governor. Anything in this Act to the contrary notwithstanding, all employees and officers of the Department of State Docks and Terminals (including the Chiefs of Divisions but not including the Director of the Department of State Docks and Terminals) shall be subject to the provisions of any law with respect to the method of selection and classification of State employees on a basis of merit.

Section X. Before entering upon the duties of Director of State Docks and Terminals, the person appointed to that office shall execute a bond with sureties to be approved by the Governor and pay-

able to the State of Alabama, in the sum of ten thousand (\$10,000) dollars, conditioned faithfully to discharge the duties of his office, which are, or may be required by law during the time he continues therein, or discharges any of the duties thereof.

Section XI. The State Docks Commission heretofore created and existing is hereby abolished.

Section XII. If any section, paragraph, sentence, clause, provision or word of this Act be held invalid by any court of competent jurisdiction such holding shall not affect any other portion of this Act, the Legislature hereby declaring that this Act would have been enacted had such unconstitutional part or parts not been included therein.

Section XIII. All laws and Parts of law or laws in conflict with the provisions of this Act are hereby repealed, but only such laws as conflict herewith, it being the purpose and intention to retain all laws regulating what is known as the Mobile Docks, but only thru the agency herein provided.

Section XIV. This Act shall become effective immediately upon its approval by the Governor.

Approved February 6, 1939.

No. 13)

(S. 23—Poole

AN ACT

To create a State Highway Department, the Chief executive officer of which shall be known as the State Highway Director, who shall exercise all the powers, authority and duties thereof, to define the powers and duties of the department, to transfer and confer upon the State Highway Department all the powers and duties now or hereafter vested by law in the State Highway Department, the State Highway Commission or in the members thereof; to provide for the appointment, qualifications and salary of the State Highway Director and to repeal all laws in conflict.

Be it Enacted by the Legislature of Alabama:

Section I. There is hereby created a State Highway Department.

Section II. The chief executive officer of the State Highway Department shall be known as the State Highway Director, and all the powers, authority and duties vested in the State Highway Department shall be exercised by the State Highway Director.

Section III. Wherever in the laws of the State of Alabama the terms, "State Highway Department" or "State Highway Commission" are used, the same shall mean the "State Highway Department". All the rights, duties, powers and authority now or hereafter vested by law in the State Highway Department, in the State Highway Commission and the members thereof are hereby transferred to and vested in the State Highway Department, and all rights, powers, duties and authority, whether clerical, executive,

administrative, judicial or quasi-judicial, now vested by law in the State Highway Department or in the State Highway Commission or in the members thereof, shall be vested in the State Highway Department hereby created, and shall be exercised by it together with any additional rights, powers and duties as hereafter may be provided by law.

Section IV. As soon after the approval of this Act as practicable, the Governor shall appoint a State Highway Director, who shall hold office at the pleasure of the Governor. Such State Highway Director shall possess the same qualifications heretofore required of a member of the State Highway Commission, and before entering upon the duties of the office, shall be required to enter into the same bond and execute the same oath of office now required of members of the State Highway Commission.

Section V. The salary of the State Highway Director shall be fixed by the Governor at an amount not to exceed Six Thousand (\$6,000) Dollars per annum, payable monthly out of the State Treasury as other salaries are now paid. The Highway Director shall also be paid his necessary travelling expenses when absent from the office of the said Department on business of the Department, upon itemized, verified statements approved by the Governor.

Section VI. If any Section, paragraph, sentence, clause, provision or word of this Act be held invalid by any Court of competent jurisdiction such holding shall not affect any other portion of this Act, the Legislature hereby declaring that this Act would have been enacted had such unconstitutional part or parts not been included therein.

Section VII. All laws or parts of laws, general, special, private or local in conflict herewith are hereby repealed.

Section VIII. This Act shall be effective immediately upon its passage and approval by the Governor.

Approved February 3, 1939.

No. 14)

(H. 35—Allen)

AN ACT

To create a Department of Commerce for the State of Alabama; to prescribe its powers and duties; to provide for the appointment of a Director of the Department of Commerce; to transfer to the Department of Commerce, to be exercised by it and its subordinate Bureaus, all powers, duties, functions, authority, employees, appropriations and property now vested in and relating to the Banking Department, the Banking Board, the Building and Loan Board, the Superintendent of Banks, the Building and Loan Commissioner, the Bureau of Insurance, the Superintendent of Insurance and the Fire Marshal Ex-Officio; to repeal all laws in conflict herewith.

Be it Enacted by the Legislature of Alabama:

Section I. There is hereby created a Department of Commerce for the State of Alabama with subordinate bureaus and divisions as hereinafter provided.

Section II. The Department of Commerce shall consist of a Bureau of Banking, a Bureau of Insurance and a Bureau of Building and Loan.

Section III. The Bureau of Banking shall consist of: (a) a Banking Board of four members and the Superintendent of Banks who shall be qualified, appointed, hold office and receive the same compensation as now provided by law for members of the Banking Board; (b) a Superintendent of Banks who shall be the chief officer of the Banking Bureau and who shall be qualified, appointed, hold office and receive the same compensation as now provided by law for the Superintendent of Banks, and who shall be ex-officio a member and chairman of the Banking Board; (c) such subordinate Divisions and employees as are now provided by law for the Banking Department.

Section IV. The Bureau of Insurance shall consist of: (a) a Superintendent of Insurance who shall be the chief officer of the Bureau of Insurance and who shall be qualified appointed, hold office and receive the same compensation as now provided by law for the Superintendent of Insurance and who shall be Fire Marshal Ex-officio; (b) such subordinate Divisions and employees as are now provided by law for the Bureau of Insurance.

Section V. The Bureau of Building and Loan shall consist of: (a) a Building and Loan Board of three members and the Superintendent of Banks who shall be qualified, appointed, hold office and receive the same Compensation as now provided by law for members of the Building and Loan Board; (b) a Commissioner of Building and Loan who shall be the chief officer of the Bureau of Building and Loan and who shall be ex-officio a member and chairman of the Building and Loan Board and who shall be the same person who is appointed Superintendent of Banks; (c) such subordinate Divisions and employees as are now provided by law for the Building and Loan Department of the State.

Section VI. The Governor shall appoint a Director of the Department of Commerce who may be Superintendent of Banks or Superintendent of Insurance. The annual salary of the Director of Commerce shall be fixed by the Governor but shall not, in any event, exceed \$5,000 per annum. If either the Superintendent of Banks or the Superintendent of Insurance is appointed Director of the Department of Commerce, he shall receive the compensation provided for that office, but he shall not receive additional compensation as head of the bureau of which he is the Superintendent. The Director shall be the chief executive officer of the Department of Commerce and all of the powers, authority and duties vested in the Department of Commerce shall be exercised by the Director thereof.

Section VII. All powers, authority, duties and functions now by law vested in, conferred upon or required to be exercised by the Banking Department of the State of Alabama, the Banking Board of the State of Alabama and the Superintendent of Banks are hereby transferred to, vested in and conferred upon the Bureau of Banking of the Department of Commerce as herein created.

Section VIII. All powers, authority, duties and functions now by law vested in, conferred upon or required to be exercised by the Bureau of Insurance, the Superintendent of Insurance and the Fire Marshal Ex-officio are hereby transferred to, vested in and conferred upon the Bureau of Insurance of the Department of Commerce as herein created.

Section IX. All powers, authority, duties and functions now by law vested in, conferred upon or required to be exercised by the Building and Loan Department of the State, the Building and Loan Board and the Building and Loan Commissioner are hereby transferred to, vested in and conferred upon the Bureau of Building and Loan of the Department of Commerce as herein created.

Section X. The Department of Commerce shall be charged with the execution of all laws now in force or which may hereafter be enacted relating to corporations and individuals doing or carrying on a banking business in the State and all laws now in force or which may hereafter be enacted, relating to insurance, insurance companies, associations, exchanges and societies and their agents and representatives doing business in the State and all laws relating to building and loan associations doing business in this State and all laws relating to the office of Fire Marshal Ex-officio.

Section XI. All books, records, accounts, documents, papers, furniture, fixtures, supplies, material, equipment and other personal property and all lands, buildings and other real property possessed or used by and all appropriations made for any department, board, bureau, commission, agency or office of the State, the functions and duties of which have been transferred to and conferred upon the Department of Commerce by this Act, are hereby transferred and assigned

to the Department of Commerce and shall be delivered upon the request of the Director of Commerce.

Section XII. The Director of the Department of Commerce shall, with the approval of the Governor, determine the number of employees needed for the efficient and economical performance of the functions and duties of the Department of Commerce and the salaries to be paid each such employee. All employees heretofore employed by any department, board, bureau, commission, agency or office of the State, the functions and duties of which have been transferred to and conferred upon the Department of Commerce by this Act, the right to appoint or nominate such employees and all appropriations for the payment of such employees, are hereby transferred and assigned to the Department of Commerce. The Director of Commerce shall, however, have the right to discharge any such employee, if, in his discretion, he shall conclude that the services of such employee are not needed or that the efficiency of the Department will be increased by the replacement of such employee. Employees determined to be needed and not transferred from some other department, board, bureau, commission, agency or office of the State and employees to replace any employees so transferred shall be appointed by the Director of Commerce.

Section XIII. Anything in this Act to the contrary notwithstanding, all employees and officers of the Department of Commerce, including the Chiefs of Bureaus, shall be subject to the provisions of any law with respect to the method of selection and classification of State employees.

Section XIV. If any section, paragraph, sentence, clause, phrase, word or part of this Act be held invalid by any court of competent jurisdiction such action shall not affect the remainder of this Act.

Section XV. All laws and parts of laws in conflict herewith are hereby repealed.

Section XVI. This Act shall become effective upon its passage.

Approved February 9, 1939.

No. 15)

(H. 100—Welch

AN ACT

To provide for the revision, codification, digesting and promulgation of the public statutes of this State, and to repeal an act entitled to provide for the revision, codification, digesting, and promulgation of the public statutes of this State approved April 21, 1936 (General Acts of Alabama, Extra Session 1936, Page 229) WHEREAS, Section 85 of the Constitution of the State of Alabama provides that it shall be the duty of the Legislature at its first session after the ratification of the Constitution and within every subsequent period of twelve years to make provision by law for revising, digesting and promulgating the public statutes of the State, of a general nature, and WHEREAS, the Legislature of Ala-

bama at its session in 1919 did make appropriate provision by law for revising, digesting and promulgating the public statutes of the State of a general nature and which provision was effected by the adoption and promulgation of the Code of Alabama of 1923; AND, WHEREAS, the Legislature of Alabama at its session in 1936 did make appropriate provisions by law for revising, digesting, and promulgating the public statutes of the State of a general and public nature, and the performance of which provision, ably performed in part, was interrupted by the untimely death of the able Commissioner, named by the Supreme Court, the Honorable S. H. Dent, and whereas in the absence of said Commissioner there is no one sufficiently familiar with his work adequately to carry it forward within the allotted time; THEREFORE

Be it Enacted by the Legislature of Alabama:

Section One: That the Governor of the State be, and is hereby authorized to employ a code commissioner, resident, or non-resident, individual, or corporation, whose duty it shall be to revise, digest, and codify all the statutes of the State of a general and public nature, including all acts passed prior to the beginning of this session.

Section Two: Such Commissioner shall prepare a systematic code of the whole body of the public statutes of the State, to be divided into separate volumes, properly bound, and the whole indexed. Such manuscript shall be prepared and submitted as herein provided, and may be either typewritten, or printed form, or partly typewritten, or partly printed.

Section Three: It shall be the duty of the Commissioner with reasonable dispatch, and not later than June 1, 1939, to deliver to the Governor the Code, together with a statement, showing each and all changes which shall have been made, together with all additions thereto, and omissions therefrom, with accurate reference to the acts and laws so offered, changed, or omitted.

Section Four: The Commissioner shall prepare appropriate chapters, titles, and subdivisions of titles, which shall be so arranged as to bring in appropriate order, and place, all public laws pertaining to the subject treated. Whenever it shall be apparent that there are legislative omissions, or mistakes in any statute, the same shall be rectified so as to correct and perfect such statute and render its meaning clear, and add such original notes and references as may be proper for easy and ready reference to the several laws from which they may be compiled.

Section Five: There shall be prepared and submitted an accurate, full, complete, and comprehensive index of the code which shall contain an alphabetical arrangement of all the various subjects contained in such code.

Section Six: The commissioner shall number each section of the code and immediately following the number of each section, shall set out the numbers of the section of the Codes of 1923, 1907, 1896, 1886, 1876, 1867, and 1852, in the order herein set forth; designating by a

(-----) any intermediate code which does not contain such sections or subject-matter.

Section Seven: The commissioner shall prefix the code with the Constitution of 1875, and the Constitution of 1901, with all Amendments.

Section Eight: The Commissioner shall receive for such services from the State of Alabama, such sum, or sums, for the delivery of the manuscript, and the publication thereof as hereinafter provided, as may be determined for such portions of the work as are delivered from time to time by contract, or contracts with the Governor, the whole of which shall not exceed Fifty Thousand Dollars (\$50,000.00) and said sum of \$50,000.00, or so much thereof as may be necessary, is hereby appropriated out of funds in the Treasury, not otherwise appropriated, and shall be paid by the Treasurer upon the certificate of the Governor.

Section Nine: The Secretary of State shall supply the Commissioner with one volume each of the Codes of 1852, 1867, 1876, 1886, and 1896; and with two volumes of the Codes of 1907, 1923, and two copies each of all acts of the Legislature of Alabama, beginning with the regular session of 1907 and also two copies each of all codes adopted by the legislature since 1923 not hereinabove enumerated.

Section Ten: When the manuscript of the Code, including the index and prefixes shall have been prepared and submitted to and received the approval and adoption of the Legislature, and the Governor, the Governor, from the appropriation referred to in Section Eight hereof is hereby authorized and empowered to purchase 3,000 complete sets thereof for distribution among, and used by the various officers and departments of the State of Alabama, including the Supreme Court Library, and University of Alabama, but not for resale by the State.

Section Eleven: An act entitled an Act to provide for the revision, codification, digesting, and promulgation of the public statutes of this state approved April 21, 1936 (General Acts of Alabama, Extra Session of 1936, Page 229) be and same is hereby repealed, and the unexpended balance of the appropriation therein provided for is returned to the State Treasury.

Section Twelve: That all laws and parts of laws in conflict herewith, be and the same are hereby repealed.

Approved February 7, 1939.

No. 18)

(H. 82—McGowin

AN ACT

To further provide for the general revenue of the State of Alabama.

Be it Enacted by the Legislature of Alabama:

Section I. DEFINITIONS. The following words, terms and phrases, when used in this Act, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning: (a). The term "person" or the term "company" herein used interchangeably, includes any individual, firm, co-partnership, association, corporation, receiver, trustee or any other group or combination acting as a unit and the plural as well as the singular number, unless the intention to give a more limited meaning is disclosed by the context. (b). The term "department" means the Department of Revenue of the State of Alabama. (c). The term "Commissioner" means the Commissioner of Revenue of the State of Alabama. (d). The term "tax year" or "taxable year" means the calendar year. (e). The term "sale" or "sales" includes installment and credit sales and the exchange of properties as well as the sale thereof for money, every closed transaction constituting a sale. (f). The term "gross proceeds of sales" means the value proceeding or accruing from the sale of tangible personal property (and including the proceeds from the sale of any property handled on consignment by the taxpayer), including merchandise of any kind and character without any deduction on account of the cost of the property sold, the cost of the materials used, labor or service cost, interest paid, or any other expenses whatsoever, and without any deductions on account of losses; provided that cash discounts allowed and taken on sales shall not be included, and "gross proceeds of sales" shall not include the sale price of property returned by customers when the full sales price thereof is refunded either in cash or by credit. (g). The word "taxpayer" means any person liable for taxes hereunder. (h). The term "gross receipts" means the value proceeding or accruing from the sale of tangible personal property, including merchandise and commodities of any kind and character, all receipts actual and accrued, by reason of any business engaged in, (not including, however, interest, discounts, rentals of real estate or royalties) and without any deduction on account of the cost of the property sold, the cost of the materials used, labor or service cost, interest paid, or any other expenses whatsoever and without any deductions on account of losses. (i). The term "wholesale sale" or "sale at wholesale" means a sale of tangible personal property by wholesalers to licensed retail merchants, jobbers, dealers, or other wholesalers for resale and does not include a sale by wholesalers to users or consumers, not for resale. The term "wholesale sale" shall include a sale of tangible personal property or products

(including iron ore) to a manufacturer or compounder which enters into and becomes an ingredient or component part of the tangible personal property or products which he manufactures or compounds for sale, and the furnished container and label thereof. (j). The term "sale at retail" or "retail sale" shall mean all sales of tangible personal property except those above defined as wholesale sales. The quantities of goods sold or prices at which sold, are immaterial in determining whether or not a sale is at retail. Sales of building materials to contractors, builders or landowners for resale or use in the form of real estate are retail sales in whatever quantity sold. Sales of tangible personal property or products to manufacturers, quarry operators, mine operators or compounders, which are used or consumed by them in manufacturing, mining, quarrying or compounding and do not become an ingredient or component part of the tangible personal property manufactured or compounded are retail sales. (k). The word "business," as used in this Act, shall include all activities engaged in, or caused to be engaged in, with the object of gain, profit, benefit or advantage, either direct or indirect, and not excepting sub-activities producing marketable commodities used or consumed in the main business activity, each of which sub-activities shall be considered business engaged in, taxable in the class in which it falls.

Section II. There is hereby levied, in addition to all other taxes of every kind now imposed by law, and shall be collected as herein provided, a privilege or license tax against the person on account of the business activities and in the amount to be determined by the application of rates against gross sales, or gross receipts, as the case may be, as follows: (a). Upon every person, firm or corporation engaged, or continuing within this State, in business of selling at retail any tangible personal property whatsoever, including merchandise and commodities of every kind and character, (not including, however, bonds or other evidences of debt or stocks), an amount equal to two per cent (2%) of the gross proceeds of sales of the business except where a different amount is expressly provided herein. Provided, however, that any person engaging or continuing in business as a retailer and wholesaler or jobber shall pay the tax required on the gross proceeds of retail sales of such business at the rates specified, when his books are kept so as to show separately the gross proceeds of sales of each business, and when his books are not so kept he shall pay the tax as a retailer, on the gross sales of the business. (b). Upon every person, firm or corporation engaged, or continuing within this State, in the business of conducting, or operating, places of amusement and/or entertainment, billiard and pool rooms, bowling alleys, amusement devices, musical devices, theaters, opera houses, moving picture shows, vaudeville, amusement parks, athletic contests, including wrestling matches, prize fights, boxing and wrestling exhibitions, football and baseball games, (including athletic contests con-

ducted by or under the auspices of any educational institution within this state, or any athletic association thereof, or other association whether such institution or association be a denominational, a state, a county, or a municipal institution or association or a state, county, or city school, or other institution, association or school), skating rinks, race tracks, golf courses, or any other place at which any exhibition, display, amusement or entertainment is offered to the public or place or places where an admission fee is charged, including public bathing places, public dance halls of every kind and description within the State of Alabama, an amount equal to two per cent (2%) of the gross receipts of any such business. (c). Upon every person, firm or corporation engaged or continuing within this State in the business of selling any automotive vehicle, an amount equal to one-half of one per cent of the gross proceeds of the sale of said automotive vehicle.

Section III. Section 350 (b) of Article 14, Chapter 1 of an Act to provide for the general revenue for the State of Alabama, approved July 10, 1935, shall not apply to the license or privilege tax levied under provisions of this act.

Section IV. If any person, on or after the passage of this act, shall engage in or continue in any business for which a privilege tax is imposed by Section II of this Act, as a condition precedent to engaging or continuing in such business, he shall apply for and obtain from the department a license to engage in and to conduct such business for the current tax year upon the condition that he shall pay the taxes accruing to the State of Alabama under the provisions of this Act, provided, however, that no license shall be issued under the provisions of this Act to any person who has not complied with the provisions of this Act, and no provision of this Act shall be construed as relieving any person from the payment of any license or privilege tax now or hereafter imposed by law.

Section V. EXEMPTIONS: There are however exempted from the provisions of this act and from the computation of the amount of the tax levied, assessed or payable under this Act the following: (a). The gross proceeds of sales of tangible personal property or the gross receipts of any business which the State is prohibited from taxing under the constitution or laws of the United States of America or under the constitution of this state. (b). The gross proceeds of sales of tangible personal property to the State of Alabama, to the counties within the State, and to incorporated municipalities of the State of Alabama. (c). The gross proceeds of the sales of lubricating oil and gasoline as defined in Schedules 138 and 156, respectively, of Section 348 of House Bill 324, approved July 10, 1935, or any amendments thereto, which are otherwise taxed. (d). The gross proceeds of the sales of textbooks used in elementary schools, high schools, and institutions of higher learning. (e). The gross proceeds of sales of alcoholic and/or cereal beverages, the sale of which is now, or

may hereafter, be controlled and/or licensed under the provisions of the "Alabama Beverage Control Act," or any amendments thereto. (f). The gross proceeds of sales of livestock, poultry and other products of the farm, dairy, grove or garden, when in the original state of production or condition of preparation for sale, when such sale or sales are made by the producer or members of his immediate family or for him by those employed by him to assist in the production thereof. Nothing herein shall be construed to exempt or exclude from the measure or computation of the tax levied, assessed or payable hereunder, the gross proceeds of sales of poultry or poultry products when not products of the farm. (g). The gross proceeds of the sale, or sales, of fertilizer. The word "fertilizer" as used in this Act, shall not be construed to include cotton seed meal, when not in combination with other materials. (h). The gross proceeds of the sale, or sales, of seeds for planting purposes. Nothing herein shall be construed to exempt, or exclude from the computation of the tax levied, assessed or payable, the gross proceeds of the sale, or sales, of plants, seedlings, nursery stock or floral products. (i). The gross proceeds of the sale, or sales of boxes, crates, bags, bagging, ties, barrels, or other containers, and the labels thereof used in preparing agricultural products, dairy products, grove or garden products for market, including barrels and other containers and the labels thereof used in preparing turpentine gum, gum spirits of turpentine and gum resin for market, when such boxes, crates, bags, bagging, ties, barrels and other containers and the labels thereof are to be sold or furnished by the seller of the products contained therein to the purchaser of such products. (j). The gross proceeds of the sale, or sales of newsprint paper, newspapers and religious publications. (k). The gross proceeds of the sale, or sales of coal or coke to manufacturers, electric power companies and transportation companies for use or consumption in the production of by-products, or the generation of heat or power used, (1) in manufacturing tangible personal property for sale, (2) for the generation of electric power or energy for use in manufacturing tangible personal property for sale or for sale, (3) for the generation of motive power for transportation. (1). The gross proceeds of the sale, or sales of those articles containing tobacco, as enumerated in and taxed under the provisions of Schedule 159 of Section 348 of H. B. 324 approved July 10, 1935, and any amendments thereto. (m). The gross receipts from the business on which, or for engaging in which a license or privilege tax is levied by or under the provisions of Section 140, 141, 142, 143, 145, 146, 147 and 149 of H. B. 324 approved July 10, 1935, entitled "An Act to provide for the general revenue of the State of Alabama," or any amendments thereto. Provided, however, that nothing contained in this sub-section shall be construed to exempt or relieve the person or persons operating the businesses enumerated in said sections 140, 141, 142, 143, 145, 146, 147 and 149 from the payment of the tax levied by this Act upon or measured by the gross

proceeds of sales of any tangible personal property, (except gas and water, the gross receipts from the sales of which are the measure of the tax levied by said section 140), merchandise or other tangible commodities sold at retail by said persons, unless the gross proceeds of sale thereof are otherwise specifically exempted by the provisions of this Act. (n). The gross proceeds of the sale or sales of railroad rails, railroad cars and vessels and barges of more than fifty tons burden, when sold by the manufacturers or builders thereof. (o). The gross proceeds of the sale or sales of lunches to school children when such sales are made within school buildings and are not for profit. (p). The gross proceeds of sale or sales of used automotive vehicles. (q). The gross proceeds of sales or gross receipts, of or by, any person, firm or corporation, from the sale of transportation, gas, water or electricity, of the kinds and natures, the rates and charges for which, when sold by public utilities, are customarily fixed and determined by the Public Service Commission of Alabama or like regulatory bodies. (r). The gross proceeds of the sale of machines used in mining, quarrying, compounding, processing and manufacturing of tangible personal property; provided that the term "machines," as herein used, shall include machinery which is used for mining, quarrying, compounding, processing or manufacturing tangible personal property, and the parts of such machines, attachments and replacements therefor, which are made or manufactured for use on or in the operation of such machines and which are necessary to the operation of such machines and are customarily so used.

Section VI. The taxes levied under the provisions of this Act, except as otherwise provided, shall be due and payable in monthly installments on or before the 20th day of the month next succeeding the month in which the tax accrues. On or before the 20th day of each month after this act shall have taken effect, every person on whom the taxes levied by this Act are imposed, shall render to the State Department of Revenue on a form prescribed by the Department, a true and correct statement showing the gross sales, the gross proceeds of sales, or gross receipts of his business, as the case may be, for the next preceding month, the amount of gross proceeds or gross receipts which are not subject to the tax, or are not to be used as a measurement of the taxes due by such person, and the nature thereof, together with such other information as the Department may demand and require, and at the time of making such monthly report such person shall compute the taxes due and shall pay to the State Department of Revenue the amount of taxes shown to be due. Provided, however, that when the total tax for which any person liable under this Act does not exceed ten (10) dollars, for any month, a quarterly return and remittance in lieu of the monthly returns may be made on or before the 20th day of the month next succeeding the end of the quarter for which the tax is due, when specially authorized by the

Department of Revenue, and under such rules and regulations as may be prescribed. The Department of Revenue, for good cause, may extend the time for making any return required under the provisions of this act, but the time for filing any such return shall not be extended for a period greater than thirty days from the date such return is due to be made.

Section VII. Any person taxable under this Act, having cash and credit sales, may report such cash sales, and the taxpayer shall thereafter include in each monthly report all credit collections made during the month preceding, and shall pay the taxes due thereon at the time of filing such report, but in no event shall the gross proceeds of credit sales be included in the measure of the tax to be paid until collections of such credit sales shall have been made.

Section VIII. On or before thirty (30) days after the end of the tax year, each person liable for the payment of a privilege tax levied by this Act shall make a return showing the gross proceeds of sales or gross receipts of business, and compute the amount of tax chargeable against him in accordance with the provisions of this Act, and deduct the amount of monthly or quarterly payments as hereinbefore provided, if any have been made, and transmit with his report a remittance in the form required by this Act covering the residue of the tax chargeable against him, to the office of the Department, and such report shall be verified by oath, as herein required.

Section IX. KEEPING RECORDS. It shall be the duty of every person engaging, or continuing, in this State in any business for which a privilege tax is imposed by this Act, to keep and preserve suitable records of the gross sales, gross proceeds of sale and gross receipts and/or gross receipts of sales of such business and such other books or accounts as may be necessary to determine the amount of tax for which he is liable, under the provisions of this Act. And it shall be the duty of every person to keep and preserve, for a period of two years, all invoices of goods, wares and merchandise purchased, for resale or otherwise, and all such books, invoices and other records shall be open for examination at any time, by the Department, or its duly authorized agent. Any person selling both at wholesale and retail shall keep his books so as to show separately the gross proceeds of wholesale sales and the gross proceeds of retail sales.

Section X. The monthly reports herein required to be made are not required to be made on oath but wherever in this Act any report is required to be sworn to, the same shall be sworn to by the taxpayer or his agent before some officer authorized to administer oaths, and any false statement to a material fact made with intent to defraud, shall constitute perjury, and upon conviction thereof the person so convicted shall be punished as provided by Section 5161 of the Code of Alabama of 1923.

Section XI. Any person subject to the provisions of this Act who shall fail to make the reports or any of them, as herein required,

or who shall fail to keep the records as herein required, shall be guilty of a misdemeanor and upon conviction shall be fined not less than twenty-five (\$25.00) dollars, nor more than five hundred (\$500.00) dollars, for each offense. Each month of such failure shall constitute a separate offense.

Section XII. Any person subject to the provisions of this Act wilfully refusing to make the reports herein required, or who shall refuse to permit the examination of his records by the State Department of Revenue, or its duly authorized agents, shall be guilty of a misdemeanor, and upon conviction shall be fined not less than fifty (\$50.00) dollars, nor more than five hundred (\$500.00) dollars for each offense, and in addition may be imprisoned in the county jail for a period not to exceed six months. Each month of failure to make such reports shall constitute a separate offense, and each refusal of a written demand of the Department to examine, inspect or audit such records shall constitute a separate offense.

Section XIII. As soon as practicable after the return is filed the Department shall examine it and ascertain the proper amount of the tax due as shown by the return. If the amount paid is greater than the amount due, as shown by the return, the excess shall be refunded to the taxpayer, or credited on any deficiency previously due by the taxpayer, in accordance with law and under such rules and regulations as the Department may adopt and promulgate. If the amount paid is less than the amount due, as shown by the return, the Department shall immediately notify the taxpayer of such deficiency and shall add thereto a penalty of ten (10%) per cent of the amount due, and if such deficiency be not paid within thirty days from the date of such notice, the same shall bear interest at the rate of one-half of one ($\frac{1}{2}$ of 1%) per cent per month, or fraction thereof, from the date the same was due which shall be collected as a part of the tax.

Section XIV. Any person who fails to pay the tax herein levied within the time required by this Act shall pay, in addition to the tax, a penalty of ten (10%) per cent of the amount of tax due, together with interest thereon at the rate of one-half of one ($\frac{1}{2}$ of 1%) per cent per month, or fraction thereof, from the date at which the tax herein levied became due and payable, such penalty and interest to be assessed and collected as a part of the tax.

Section XV. If any taxpayer fails to make the returns herein required, the Department shall issue written notice, by registered mail, to such taxpayer to make such returns forthwith, and if such taxpayer fails or refuses to make such return, or returns, within thirty days from the date of such notice, then the Department shall make return for such delinquent taxpayer upon such information as it may reasonably obtain, and shall assess the taxes due thereon, and shall add a penalty for failure to make such return and payment of twenty-five (25%) per cent of the tax due, as assessed by the department, and

interest at the rate of one-half of one ($\frac{1}{2}$ of 1%) per cent per month, or fraction thereof, from the date such taxes were due. Provided the Department, if a good and sufficient reason is shown for such delinquency, may waive or remit the twenty-five (25%) per cent penalty, or a portion thereof.

Section XVI. Whenever the Department, in examining and auditing the records of any taxpayer, or from other information, shall ascertain that the amount, or amounts, previously paid by any taxpayer for any period, or periods, is incorrect, the Department shall compute the correct amount of tax due, and if it appears that the amount paid by the taxpayer is in excess of the correct amount due, such excess shall be refunded to the taxpayer in accordance with law and under the rules and regulations of the Department. If it appears that the amount paid by such taxpayer is less than the amount due, the Department shall compute the amount of such deficiency and shall notify the taxpayer, and shall demand payment therefor, and if not paid within ten (10) days from the date of such demand, the Department shall make an assessment against the taxpayer of the amount due and shall add a penalty of one-half of one ($\frac{1}{2}$ of 1%) per cent per month from the date such taxes, or any part thereof became due. Provided that if the Department be of the opinion that there was a wilful or fraudulent intent by the taxpayer to evade the tax due, it may assess a penalty of twenty-five (25%) per cent of the tax. Provided that upon appeal such action shall be reviewable.

Section XVII. Whenever the Department shall make an assessment against a taxpayer as herein provided, the Department shall notify the taxpayer by registered mail of the amount of such assessment, and shall notify the taxpayer to appear before the Department on a day named not less than twenty (20) days from date of such notice and show cause why such assessment should not be made final. Such appearance may be made by agent or attorney. If no showing is made on or before the date fixed in such notice, or if such showing is not sufficient in the judgment of the Department, such assessment shall be made final in the amount originally fixed or in such other amount as is determined by the Department to be correct. If upon such hearing the Department finds the amount due to be different from that originally assessed, it shall make the assessment final in the correct amount and in all cases shall notify the taxpayer of the assessment as finally fixed. Provided a notice by United States mail addressed to the taxpayer's last known place of business shall be sufficient. Any assessment made by the Department shall prima facie be correct upon appeal.

Section XVIII. Whenever any taxpayer, who has duly appeared and protested an assessment by the Department, is dissatisfied with the assessment as finally made, he may appeal in all respects in the same manner provided by Act No. 154, approved April 21, 1936 (Act

Sp. Session 1936 P. 172), except that such appeal shall be made within fifteen (15) days from the date said assessment becomes final. Provided no appeal shall lie in cases where the taxpayer has failed to appear and protest.

Section XIX. The tax together with interest and penalties imposed by this act shall be a lien upon the property of any person subject to the provisions of this act, and the provisions of the Revenue laws of the State of Alabama applying to liens for license taxes shall apply fully to the taxes herein levied.

Section XX. If any final assessment of taxes herein levied be not paid within fifteen (15) days after such assessment becomes final if no appeal has been taken, in cases where an appeal is authorized, the Department shall issue an execution therefor directed to any Sheriff of the State of Alabama commanding him to levy upon and sell the real and personal property of the person against whom such execution is directed, found in his county, together with all penalties assessed. The sheriff shall within five (5) days after the receipt thereof file with the clerk of the Circuit Court of his county a copy thereof, and thereupon the Circuit Clerk shall enter in the judgment roll, in the column of judgment debtors, the name of the taxpayer named in the execution, the amount of the tax, and damages and penalties for which the execution is issued, and the day when such copy is filed; thereupon the amount of such execution so docketed shall become a lien upon the real and personal property of the person against whom it is issued in the same manner as judgments duly enrolled from the Circuit Court or court of like jurisdiction. The sheriff thereupon shall levy upon any property of the taxpayer with like effect and in the manner prescribed by law in respect to execution issued upon judgments of the Circuit Court or court of like jurisdiction, and the remedies of attachment and garnishment shall apply fully to such execution, and the officer shall be entitled to the same fees for his services as now allowed by law for like services to be collected in the same manner as now provided by law for like services. The sheriff shall make due return of such execution within sixty (60) days of the issuance thereof to the Department and upon such return alias or plures executions may be issued by the department which shall be executed in the same manner.

Section XXI. The tax herein levied shall constitute a debt due the State of Alabama and may be collected by civil suit in addition to the methods herein provided.

Section XXII. The Department of Revenue may summon before it any taxpayer and any officer or employee of any taxpayer, liable for taxes under this act or any other witnesses, swear and examine them with regard to any facts showing the amount of taxes levied by this act due by such persons, and the Department, or its duly authorized representatives and agents shall be allowed to examine any books,

papers, or documents of the taxpayer, and if any taxpayer shall refuse to allow such examination to be made in his main office or principal place of business in Alabama, the Department may require the production, before it at the court house in the county in Alabama where the taxpayer has his main office or principal place of business, of any books, papers, invoices, or documents. The summons of witnesses to appear before it, or the notice to the taxpayer to produce books, papers, invoices, or documents before it, may be issued by the State Department of Revenue, signed by the secretary, and such summons or notice shall be directed to any sheriff of the State of Alabama, and must be served by any sheriff to whom such summons or notice is delivered by the Department for services. The Department or any authorized agent is given full authority to inspect or examine, during business hours at the office of the taxpayer where its books are kept, or if said books are kept outside of the state, then at the office outside of the state where such books are kept by the taxpayer, all books, papers, invoices, or documents of said taxpayer shedding any light on the amount of taxes levied by this act due by such person. Any person who wilfully fails to appear before the Department after having been summoned as a witness, or having appeared refuses to testify as to any material matters required of him by the Department, or any taxpayer or his agent who refuses to produce before the Department after notice given him, any books, papers, invoices, or documents required to be produced, or any taxpayer or agent thereof in custody of the books, papers, invoices, or documents, and any taxpayer who refuses to allow the Department or any authorized agent thereof to inspect or examine said books, papers, invoices, or documents at the office of such taxpayer, where said books are kept during business hours, shall be guilty of contempt and upon a certificate of the facts to a Circuit Judge of the county where the taxpayer has his principal place of business or where his books are kept, it shall be the duty of such Circuit Judge to adjudge such taxpayer or his agent in contempt, and shall subject such taxpayer or his agent to a fine not exceeding fifty (\$50) dollars and imprisonment in the county jail for a period not exceeding five (5) days. Provided that each said refusal to appear or upon appearance each refusal to testify, or each said refusal to produce books, papers, invoices, or documents required, or each refusal to allow the examination of such books, records, invoices, or documents, either or all shall constitute a separate offense.

Section XXIII. If the Department finds that a person liable for tax under any provisions of this act designs quickly to depart from the state or to remove his property therefrom, or to conceal himself or his property therein, or to do any other act tending to prejudice or to render wholly or partly ineffectual proceedings to collect such tax unless such proceedings be brought without delay, the Department shall cause notice of such finding to be given such person, together

with a demand for an immediate return and immediate payment of such tax. Thereupon such tax shall become immediately due and payable. If such person (1) is not in default in making such return or paying any tax prescribed by this act, and (2) furnishes evidence satisfactory to the Department under regulations to be prescribed by the Department, that he will duly return and pay the tax to which the Department's finding relates, then such tax shall not be payable prior to the time otherwise fixed for payment. If such person fails to appear and make such showing then the Department shall make such assessment final and execution may immediately issue as it is herein provided.

Section XXIV. For the purpose of securing the payment of any tax, penalties, or interest due or which may become due under the provisions of this Act, every itinerant vendor engaged in the business of selling tangible personal property at retail in this State is required to file a bond with the Department conditioned upon the payment of any tax, penalty or interest due or to become due under the Act, and upon faithful observance of the provisions of the Act. Such bond shall be effective for a period of one (1) year from date of issuance and shall be in an amount not less than One Hundred (\$100.00) Dollars nor more than One Thousand (\$1,000.00) Dollars to be fixed by the Department equal to the amount of tax estimated due or to become due under the provisions of this Act, and shall have a surety or sureties satisfactory to the Department. It shall be filed with the Department within (10) days after notice in writing has been issued by the Commissioner or any person designated by him in writing for this purpose, and sent by registered mail to the last known address of any itinerant vendor or has been personally served upon him by a duly accredited representative of the Department. If such itinerant vendor fails to make any return due under this Act or to pay any taxes or penalties due under this Act, or to keep books and records as required by this Act, or fails to perform any other duty or obligation imposed on him under this Act, such bond shall thereupon be forfeited, and the Department shall institute suit upon such bond in the name of the State of Alabama for the entire amount of said bond and costs.

Section XXV. The tax imposed by this Act shall be a lien upon the property of any person subject to the provisions hereof. Any person subject to the provisions hereof who shall sell out his business or stock of goods, or shall quit business, shall be required to make out the return provided for under Section 6 within thirty days after the date he sold out his business, or stock of goods, or quit business, and his successor in business shall be required to withhold sufficient of the purchase money to cover the amount of said taxes due and unpaid until such time as the former owner shall produce a receipt from the department showing that the taxes have been paid, or a certificate that no taxes are due. If the purchaser of a business or stock

of goods shall fail to withhold purchase money as above provided the taxes shall be due and unpaid after the thirty-day period allowed, he shall be personally liable for the payment of the taxes accrued and unpaid on account of the operation of the business by the former owner. If in such cases the department deems it necessary in order to collect the taxes due the State it may make a jeopardy assessment as herein provided.

Section XXVI. It shall be unlawful for any person, firm, corporation, association or copartnership engaged in or continuing within this State in the business for which a license or privilege tax is required by this Act to fail or refuse to add to the sales price and collect from the purchaser the amount due by the taxpayer on account of said tax provided herein, or the amount due by said taxpayer on account of any taxes provided herein, or the amount due by said taxpayer on account of any taxes provided under this Act, or who shall refund or offer to refund all or any part of the amount collected, or absorb or advertise directly or indirectly the absorption or refund of said tax or any portion of the same.

Section XXVII. Any person, firm, or corporation violating any of the provisions of Section 26 of this Act shall be guilty of a misdemeanor and upon conviction shall be fined in a sum of not less than Fifty (\$50.00) Dollars nor more than One Hundred (\$100.00) Dollars, or may be imprisoned in the county jail for not more than six months, or by both such fine and imprisonment, and each act in violation of the provisions of this Act shall constitute a separate offense.

Section XXVIII. Any taxpayer who shall violate any of the provisions of this act may be restrained from continuing in business, and the proper prosecution shall be instituted in the name of the State of Alabama by its Attorney General, by the counsel of the Department or under their direction by any Circuit Solicitor of the State until such person shall have complied with the provisions of this act.

Section XXIX. The tax imposed by this act shall be in addition to all other licenses and taxes levied by law as a condition precedent to engaging in any business taxable hereunder, except as in this act otherwise specifically provided.

Section XXX. Unless in accordance with a judicial order or as herein provided, the Department, its agents, clerks or stenographers shall not divulge the gross receipts, gross proceeds of sales or the amount of tax paid by any person as shown by the reports filed under the provisions of this act, except to employees of the Department for the purpose of checking, comparing and correcting returns, or to the Governor, or to the Attorney General, or any other legal representative of the State in any action in respect to the amount of tax due under the provisions of this act.

Section XXXI. The administration of this act is vested in and shall be exercised by the State Department of Revenue, except as

otherwise herein provided, and the enforcement of any of the provisions of this act in any of the courts of the state shall be under the jurisdiction and supervision of the Department, and the Department may require the assistance of, and act through the prosecuting attorney, or deputy solicitor of any county, or any circuit solicitor, and the Attorney General of the State, and any legal counsel of the State Department of Revenue. The Department shall appoint as needed such agents, clerks, and stenographers as may be necessary to enforce provisions of this act who shall serve at the will of the Commissioner of the Department, and who shall perform such duties as may be required, and such duly appointed and qualified agents are authorized to act for the Department as it may direct and as is authorized by law. Each such agent shall execute a bond in the sum of five thousand (\$5,000.00) dollars for the faithful performance of his duties.

Section XXXII. The Department shall from time to time promulgate such rules and regulations for making returns and for ascertainment, assessment and collection of the tax imposed hereunder as it may deem necessary to enforce its provisions; and upon request shall furnish any taxpayer with a copy of such rules and regulations.

Section XXXIII. If upon examination by the Department, it is determined that an amount of tax has been paid in excess of that properly due, then the amount in excess shall be credited against any amount thereof then due from the taxpayer, and any balance of such excess shall be refunded to the taxpayer by certificate of overpayment issued by the Department to the State Comptroller. Upon approval of such certificate by the Comptroller, he shall issue his warrant on the Treasurer for the amount shown by such certificate. Any taxes recovered by suit by any taxpayer shall be refunded in like manner, but shall be accompanied by a copy of the order or decree of the court issuing such order or decree.

Section XXXIV. All taxes or other funds received or collected by the department under the provisions of this Act shall be without delay deposited in the State Treasury.

Section XXXV. Any and all expenses, including salaries, necessary to provide for the administration and enforcement of this Act shall be paid out of the proceeds of the collection therefrom before any distribution or disbursement. After the payment of such expenses, so much of the amount remaining, as may be necessary for the replacement in the several funds derived from the several State levies of property taxes on an ad valorem basis, totalling six and one-half mills, as levied by law and for the purposes prescribed in said levies, which may be lost by any exemption of homesteads now provided by law, shall be a first charge against the remaining proceeds and collections made under the provisions of this Act. The Comptroller or other proper disbursing officer, with the approval of the Governor, is hereby directed to draw his warrants payable out of the proceeds of collec-

tions made under this Act as herein provided in such sums as shall be found necessary to take care of and to replace in the several funds derived from the said several State levies totalling six and one-half mills of State ad valorem taxes lost, as above set forth. If the amount of such collections in any fiscal year, remaining after the payment of the expenses of administration and replacement of the amounts in the several funds derived from the State six and one-half mill tax as herein provided, is equal to or greater than four million, two hundred thousand dollars (\$4,200,000.00) then the sum of one million, fifty thousand dollars (\$1,050,000.00) shall be paid into the State Treasury to the credit of the sixty-seven counties of the State, to be divided and distributed as hereinafter provided. If the amount of such collections in any fiscal year, remaining after the payment of expenses of administration, and the replacement of the amounts in the several funds derived from the State six and one-half mill tax, as herein provided, is less than four million, two hundred thousand dollars (\$4,200,000.00) then an amount equal to one-fourth thereof shall be paid into the State Treasury to the credit of the sixty-seven counties of the State, to be divided and distributed as hereinafter provided. The amount deposited to the credit of the sixty-seven counties as above provided (which in no one fiscal year shall exceed one-fourth of the amount of collections remaining after the payment of the expenses and charges herein first required to be paid nor shall it in any event exceed the sum of one million, fifty thousand dollars for any one fiscal year) shall be divided and distributed as follows to-wit: One-half of said proceeds shall be divided and distributed proportionately among the sixty-seven counties of the State according to the population of the said counties as shown by the last Federal Census; and one-half of said proceeds shall be divided or distributed equally among the sixty-seven counties; provided that the funds divided and distributed to the several counties of the State as hereinabove provided for shall be used exclusively for full-time health service in cooperation with the State Board of Health and/or the Federal Government; for public welfare in cooperation with the State Department of Public Welfare and/or the Federal Government; and for extension services in cooperation with the Alabama Agricultural Extension Service and/or the Federal Government, at the discretion of the Commissioners Court, Boards of Revenue, or other governing bodies of the several counties of the State. The amount of the proceeds of all taxes levied by this Act remaining after the payment of the expenses of administration and enforcement and the replacement in the several funds of the amount lost by any homestead exemptions and the distribution to the sixty-seven counties as herein provided shall be paid into the Alabama Special Educational Trust Fund.

Section XXXVI. The Governor may, by executive order, authorize the Department to provide, by proper rules and regulations,

for the allowance of a discount, not to exceed three per cent (3%) of the taxes levied by this Act and due and payable to the State by any person licensed under the provisions hereof. Provided, however, that no discount shall be authorized or allowed upon any taxes which are not paid before delinquency, as in this Act provided.

Section XXXVII. (a) The Department, if it deems it necessary, in order to facilitate the collection of the tax or any other amount required by this Act, may provide by rule and regulation for issuance, sale and redemption of tax tokens in denominations of one mill and five mills. The Department may purchase such number of tokens in each denomination as may be found necessary. Any tokens authorized to be issued by said Department shall be sold at face value by the Department and shall be subject to redemption by the Department at face value, under such rules and regulations as the Department may promulgate. Such tokens, if authorized, shall be received by the Department or person liable for taxes hereunder in the payment of any tax or other amount required under this act where such tax or other amount is a fractional part of one cent. (b) Any person who shall counterfeit, forge or alter any such token, or other evidence of tax payment issued or caused to be issued by the Department or who shall issue or cause to be issued any imitation of any token or other evidences of tax payment, or who shall attempt to do so, shall be guilty of forgery in the first degree, and upon conviction shall be punished as now provided by law.

Section XXXVIII. This act shall be effective upon the first of the month following its passage.

Section XXXIX. That the provision of this Act are severable and if any section or sections, paragraph or paragraphs, sentence or sentences, clause or clauses, phrase or phrases, word or words of this Act shall be held to be unconstitutional by the valid judgment or decree of any court of competent jurisdiction, the same shall not affect or impair any of the remaining provisions, sections, paragraphs, sentences, clauses, phrases and, or words of this Act. It is hereby declared to be the legislative intent that this Act and each section, paragraph, sentence, clause, phrase or word thereof would have been enacted had such unconstitutional section or sections, paragraph or paragraphs, sentence or sentences, clause or clauses, phrase or phrases, and word or words not been included herein.

Section XL. Act No. 126 of the Legislature of Alabama, Extra Session, 1936-1937, entitled, "An Act to further provide for the general revenue of the State of Alabama, and to repeal an Act entitled, 'To be entitled an Act to amend an Act entitled, 'An Act to provide for the general revenue of the State of Alabama,' approved July 10, 1935,' by adding Schedule 155.4A and Schedule 155.4B to Section 348 of said Act, approved December 17, 1936," approved February 23, 1937, is hereby repealed as of the effective date of this Act.

Provided that nothing herein shall be construed to relieve any person from any tax liability, penalty, or forfeiture incurred under such Act before the effective date of this Act; and any provisions of said Act No. 126, providing for the collection and enforcement of any tax liability, penalty or forfeiture thereunder shall as to such tax, liability, penalty, or forfeiture remain in full force and effect. The State Department of Revenue shall prescribe rules and regulations for the redemption of tokens issued under said Act No. 126, provided that the funds necessary for such redemption shall be paid from the proceeds of the token redemption fund established under the provisions of said Act No. 126.

Approved February 8, 1939.

No. 19)

(H. 94—Gwin

AN ACT

To repeal an Act entitled "An Act to provide for the appointment or election of a bailiff to attend the sessions and serve the Grand Jury of the Circuit Court in all counties of the State having a population of more than 200,000 according to the last or any subsequent Federal Census, and to fix the compensation for such bailiff and to provide the manner of payment thereof," approved April 19, 1933.

Be it Enacted by the Legislature of Alabama:

Section 1. That the Act entitled "An Act to provide for the appointment or election of a bailiff to attend the sessions and serve the Grand Jury of the Circuit Court in all counties of the State having a population of more than 200,000 according to the last or any subsequent Federal Census, and to fix the compensation for such bailiff and to provide the manner of payment thereof," approved April 19, 1933, be and the same is hereby repealed.

Section 2. This Act shall become effective immediately upon its enactment.

Approved February 8, 1939.

No. 23)

(S. 35—Stakely

AN ACT

To authorize the Governor, at his discretion, to make expenditures from the Governor's Contingent Fund for the repair, and upkeep of the Governor's mansion and the lights, heat, water, service and servants, necessary or incident to the operation thereof, as well as expenditures for public or official entertainment incident to his office and for such transportation as may be necessary for the Governor's use.

Be it Enacted by the Legislature of Alabama:

Section I. The Governor is, at his discretion, authorized to make expenditures from the Governor's Contingent Fund, for the repair, and

upkeep of the Governor's mansion and for the lights, heat, water, service and servants, necessary or incident to the operation thereof, as well as expenditures for public or official entertainment incident to his office and for such transportation as may be necessary for the Governor's use.

Section II. Such payments are to be made in the manner provided by law for making payments from the Contingent Fund.

Section III. All laws and parts of laws in conflict herewith are hereby specifically repealed.

Section IV. This Act shall be effective upon its approval.

Approved February 10, 1939.

No. 26)

(S. 56—DeVane

AN ACT

To authorize the use, for the fiscal year beginning October 1, 1938, and ending September 30, 1939, for the purposes of Section 989 of the Code of Alabama of 1923, as amended March 2, 1937, of the unused portion of the funds provided under Act No. 377, General Acts of 1935, page 801, approved September 9, 1935:

Be it Enacted by the Legislature of Alabama:

Section 1. Any portion of the funds appropriated for the fiscal year beginning October 1, 1938, and ending September 30, 1939 under Act No. 377, General Acts of 1935, page 801, Approved September 9, 1935, not used for the acquisition of land for State Forests and State Parks as provided in said Act may be used to carry out the provisions of Section 989 of the Code of Alabama of 1923, as amended March 2, 1937, including forest fire protection under the co-operative agreement between the State and the United States pursuant to the terms of said agreement.

Section 2. All laws or parts of laws, whether local or special, or otherwise, in conflict with the provisions of this Act, are hereby repealed.

Section 3. This Act shall take effect from its passage.

Approved February 15, 1939.

No 27)

(H. 84—Robertson (Cullman)

AN ACT

To repeal Act No. 141, approved February 24, 1937, providing for the employment of stenographers, clerks and other assistants by the Board of Finance and Control in counties having a population of forty-one thousand (41,000) or more.

Be it Enacted by the Legislature of Alabama:

Section 1. That Act No. 141, approved February 24, 1937, Acts of Extra Session of 1936-37, p. 158, which Act provides that any county in the State of Alabama having a population of forty-one thousand (41,000) or more in which there exists a Board of Finance and Control is hereby authorized to employ stenographers, clerks and such other assistants as may be desired, be and the same is hereby repealed.

Section 2. This Act shall become effective upon its passage and approval by the Governor.

Approved February 15, 1939.

No. 32)

(S. 42—Hildreth

AN ACT

To provide for the fixing of salaries in certain executive departments of the State by authorizing the Governor to fix the salaries of the officers and employees of the Governor's office, including the Governor's Legal Advisor, the Director, Commissioner, or Chief executive officer of the Banking Department, the State Highway Commission, the State Tax Commission, the State Board of Administration and associate member thereof, the Public Welfare Department, the Unemployment Compensation Commission, the Bureau of Insurance, the Alabama Highway Patrol, the Alcoholic Beverage Control Board, the Department of Labor, the State Docks Commission, the Department of Military and Naval Affairs, the Chief Mine Inspector, the State Forestry Commission, the Alabama Real Estate Commission, the Comptroller, the Peoples Public Service Attorney, and the Capitol Custodian, or the Director, Commissioner, or Chief Executive Officer of such other executive departments of the State as may hereafter be created in addition to or in lieu of the foregoing named departments; and to authorize the Director, Commissioner, or Chief Executive Officer of the foregoing departments or such departments as may hereafter be created in addition to or in lieu of said departments, with the approval of the Governor, to fix the salaries of all subordinate officers and employees in their respective departments, provided that no salary shall be in excess of Five Thousand Seven Hundred Dollars (\$5,700) per annum; and to repeal all laws in conflict with the provision of this Act.

Be it Enacted by the Legislature of Alabama:

Section I. That the Governor is hereby authorized and empowered to fix the salaries of the officers and employees in the Governor's office, including the Governor's Legal Advisor, the Director, Commis-

sioner, or Chief Executive Officer of the Banking Department, State Highway Commission, the State Tax Commission, the State Board of Administration and associate member thereof, the Public Welfare Department, the Unemployment Compensation Commission, the Bureau of Insurance, the Alabama Highway Patrol, the Alcoholic Beverage Control Board, the Department of Labor, the State Docks Commission, the Department of Military and Naval Affairs, the Chief Mine Inspector, the State Forestry Commission, the Alabama Real Estate Commission, the Comptroller, the Peoples Public Service Attorney, and the Capitol Custodian, or the Director, Commissioner, or Chief Executive Officer of such other executive departments of the State as may hereafter be created in addition to or in lieu of the foregoing named departments; and the Director, Commissioner, or Chief Executive Officer of the foregoing departments or such departments as may hereafter be created in addition to or in lieu of said departments, is authorized, with the approval of the Governor, to fix the salaries of all subordinate officers and employees in their respective departments, provided that no salary shall be in excess of Five Thousand Seven Hundred Dollars (\$5,700) per annum.

Section II. If any paragraph, sentence, provision or word of this Act be held invalid by any Court of Competent jurisdiction such holding shall not affect any other paragraph, sentence, provision or word of this Act, the Legislature hereby declaring that the provisions of this Act are severable and that it would have enacted the same without such invalid paragraph, sentence, provision or word.

Section III. All laws or parts of laws, general, special, private or local providing otherwise are hereby repealed.

Section IV. This Act shall become effective upon its passage.

Approved February 16, 1939.

No. 33)

(S. 59—Calhoun

AN ACT

To amend Section 7245 of the Code of Alabama of 1923, relating to presentation of witness claims within three (3) years, and transfer of unclaimed witness fees to Fine and Forfeiture Fund.

Be it Enacted by the Legislature of Alabama:

Section 1. Section 7245 of the Code of Alabama, 1923. Be and the same is hereby amended to read as follows: All persons entitled to such witness fees shall present their claim for payment to the County Treasurer or custodian of County Funds within three (3) years from the date of its collection by the clerk, by presenting the witness certificate or by filing an affidavit showing its loss, and his or her right and title to the payment, and said Treasurer or Custodian of County Funds upon such presentation shall pay out of said funds to the person pre-

sending said claim the amount shown to be due him or her by the report filed with him or her by the Clerk.

Section 2. All claims for witness fees, reported by the Clerk, paid over to the County Treasurer or Custodian of County funds shall be forever barred after three (3) years from the time such fees are collected, and subject to disbursement, and on the first day of January of each year the Treasurer or Custodian of County funds shall transfer from said fund and place in the Fine and Forfeiture Fund of the County all such fees in its hands which are shown by the Clerk's report to have been collected and subject to disbursement for three (3) years. However, in those Counties where the Fine and Forfeiture Fund and General Fund of the County have been consolidated into one fund called the General Fund of the County, the fees above referred to, are placed in the General Fund of the County.

Approved February 16, 1939.

No. 34)

(H. 96—Hodo

AN ACT

To amend Section 3770 of the Code of Alabama of 1923, to provide that state witnesses attending in more criminal cases than one on the same day shall be entitled to fees in only one case.

Be it Enacted by the Legislature of Alabama:

That Section 3770 of the Code of Alabama of 1923 be and the same is hereby amended to read as follows: 3770. FEES OF STATE WITNESSES WHEN SUBPOENAED IN MORE CASES THAN ONE: A witness for the state attending in more criminal cases than one on the same day, shall only be entitled to fees in one case, to be selected by him while so attending.

Approved February 17, 1939.

No. 35)

(H. 102—McGowin

AN ACT

To protect trade-mark owners, producers, distributors and the general public against injurious and uneconomic practices in the distribution of competitive commodities bearing a distinguishing trade-mark, brand or name, through the use of voluntary contracts establishing minimum resale prices and providing for refusal to sell unless such minimum resale prices are observed.

Be it Enacted by the Legislature of Alabama:

Section 1. The following terms, as used in this Act, are hereby defined as follows: (A) 'Commodity' means any subject of commerce. (B) 'Producer' means any grower, baker, maker, manufacturer, bot-

tlar, packer, converter, processor or publisher. (C) 'Wholesaler' means any person selling a commodity other than a producer or a retailer. (D) 'Retailer' means any person selling a commodity to consumers for use. (E) 'Person' means an individual, a corporation, a partnership, an association, a joint-stock company, a business trust or any unincorporated organization.

Section 2. No contract relating to the sale or resale of a commodity which bears, or the label or container of which bears, the trade-mark, brand, or name of the producer or distributor of such commodity and which commodity is in free and open competition with commodities of the same general class produced or distributed by others shall be deemed in violation of any law of the State of Alabama by reason of any of the following provisions which may be contained in such contract: (A) That the buyer will not resell such commodity at less than the minimum price stipulated by the seller. (B) That the buyer will require of any dealer to whom he may resell such commodity an agreement that he will not, in turn, resell at less than the minimum price stipulated by the seller. (C) That the seller will not sell such commodity: (1) to any wholesaler, unless such wholesaler will agree not to resell the same to any retailer unless the retailer will in turn agree not to resell the same except to consumers for use and at not less than the stipulated minimum price, and such wholesaler will likewise agree not to resell the same to any other wholesaler unless such other wholesaler will make the same agreement with any wholesaler or retailer to whom he may resell; or (2) to any retailer, unless the retailer will agree not to resell the same except to consumers for use and at not less than the stipulated minimum price.

Section 3. For the purpose of preventing evasion of the resale price restrictions imposed in respect of any commodity by any contract entered into pursuant to the provisions of this Act (except to the extent authorized by the said contract): (A) The offering or giving of any article of value in connection with the sale of such commodity; (B) The offering or the making of any concession of any kind whatsoever (whether by the giving of coupons or otherwise) in connection with any such sale; or (C) The sale or offering for sale of such commodity in combination with any other commodity, shall be deemed a violation of such resale price restriction, for which the remedies prescribed by Section 6 of this Act shall be available.

Section 4. No minimum resale price shall be established for any commodity, under any contract entered into pursuant to the provisions of this Act, by any person other than the owner of the trade-mark, brand or name used in connection with such commodity or by a distributor specifically authorized to establish said price by the owner of such trade-mark, brand or name.

Section 5. No contract containing any of the provisions enumerated in Section 2 of this Act shall be deemed to preclude the resale of

any commodity covered thereby without reference to such contract in the following cases: (A) In closing out the owner's stock for the bona fide purpose of discontinuing dealing in any such commodity and plain notice of the fact is given to the public; provided the owner of such stock shall give to the producer or distributor of such commodity prompt and reasonable notice in writing of his intention to close out said stock, and an opportunity to purchase such stock at the original invoice price; (B) When the trade-mark, brand or name is removed or wholly obliterated from the commodity and is not used or directly or indirectly referred to in the advertisement or sale thereof; (C) When the goods are altered, second-hand, damaged or deteriorated and plain notice of the fact is given to the public in the advertisement and sale thereof, such notice to be conspicuously displayed in all advertisements and to be affixed to the commodity; (D) by any officer acting under an order of court.

Section 6. Wilfully and knowingly advertising, offering for sale or selling any commodity at less than the price stipulated in any contract entered into pursuant to the provisions of this Act, whether the person so advertising, offering for sale or selling is or is not a party to such contract, is unfair competition and is actionable at the suit of any person damaged thereby.

Section 7. This Act shall not apply to any contract or agreement between or among producers or distributors or between or among wholesalers or between or among retailers as to sale or resale price.

Section 8. If any provision of this Act, or the application thereof to any person or circumstance, is held invalid, the remainder of the Act, and the application of such provisions to other persons or circumstances, shall not be affected thereby.

Section 9. All Acts or parts of Acts inconsistent herewith are hereby repealed to the extent of such inconsistency.

Section 10. This Act may be known and cited as the 'Fair Trade Act.'

Approved February 17, 1939.

No. 36)

(H. 108—Norman of Bullock

AN ACT

To repeal an Act entitled, "An Act to regulate the use of State owned Motor propelled vehicles and motor propelled vehicles owned by any institution supported wholly or in part by State funds; and motor propelled vehicles for which the motor fuel or tag is furnished by the State or any institution supported wholly or in part by State Funds," approved March 23, 1933.

Be it Enacted by the Legislature of Alabama:

Section 1. That an Act entitled, "An Act to regulate the use of State owned motor propelled vehicles and motor propelled vehicles

owned by any institution supported wholly or in part by State funds; and motor propelled vehicles for which the motor fuel or tag is furnished by the State or any institution supported wholly or in part by States funds," approved March 23, 1933, be and the same is hereby repealed.

Approved February 17, 1939.

No. 37)

(H. 144—Stone

AN ACT

To Amend Section 2018 of the Alabama Code of 1923.

Be it Enacted by the Legislature of Alabama:

That Section 2018 of the Alabama Code of 1923 be amended so as to read as follows: Section 2018. The council or other governing body of any town or city may provide public scales and an inspection of weights and measures, and may provide punishment for persons, firms and corporations using fraudulent weights and measures; may alter and change the channel of any water course in the police jurisdiction of the city or town; and may construct and maintain wharves and construct buildings and other improvements on wharves and collect wharfage dues thereon; and may lease all or any part of wharves or sites for wharves constructed, maintained or owned by such town or city and buildings and other improvements thereon, in periods not exceeding thirty years, for public or private use, and may authorize the lessees in such leases and their sub-lessees to construct or maintain buildings and other improvements upon said wharves or wharf-sites and collect wharfage dues thereon and to sublet all or any part of said wharves, buildings and other improvements; and may provide for lighting, sprinkling, and cleaning the streets by contract or otherwise; and may establish, lay out and improve public grounds, parks and boulevards, regulate the same and may provide music and other exhibitions for the amusement of the inhabitants.

Approved February 17, 1939.

No. 38)

(H. 179—Hardwick

AN ACT

To Further Define Burglary; And To Provide That Any Person Breaking Into A Motor Vehicle With Intent To Steal Or To Commit A Felony Shall Be Guilty Of Burglary.

Be it Enacted by the Legislature of Alabama:

Section 1. Any person who, in the night or day, with intent to steal or to commit a felony breaks into and enters any motor vehicle in

this state is guilty of burglary, and must, on conviction, be imprisoned in the penitentiary for not less than one nor more than four years.

Approved February 17, 1939.

No. 39)

(H. 187—Locke

AN ACT

To provide for a Public Corporation for the purpose of constructing or causing to be constructed public roads and bridges in this State and related purposes; to prescribe its powers and duties, and to provide for the raising of necessary funds for such purposes, and to provide for the payment of the cost of construction of such roads and bridges, and to authorize such corporation to borrow money and match Federal funds for public Roads, Bridges and Highways construction and to issue bonds, warrants, assignments, transfers, or securities, and to aid the several Counties of the State in negotiating or otherwise financing interest bearing warrants of such Counties, secured by pledge of the proceeds of gasoline tax appropriated to the Counties by the State, and to contract with Counties, The State Highway Commission of Alabama or other agency performing any of the functions thereof by whatever name it may be known, the Federal Emergency Administration of Public Works, and any other branch or agency of the Federal Government or other authorities, and persons, firms, or corporations; and to repeal an Act entitled:—"An Act, To provide for a public corporation for the purpose of constructing or causing to be constructed public roads and bridges in this State; to prescribe its powers and duties and to provide for the raising of necessary funds for such purpose and to provide for the payment of the cost of construction of such roads and bridges and to borrow money and match Federal funds for public work construction and to issue bonds, warrants, assignments, transfers or securities and to contract with the State Highway Commission of Alabama, the Public Works Administration and any other branch of Federal Government or other authorities necessary to carry out the purposes of this Act," approved September 13, 1935 (1935 Acts, Page 1006), and all amendments thereto.

Be it Enacted by the Legislature of Alabama:

Section 1. That the Director of the State Highway Department, The President of the State Board of Administration, and the State Comptroller of the State of Alabama may become a public corporation with the power and authority herein defined upon proceeding in substance according to the provisions of this Act.

Section 2. To become a corporation, the said three persons, or the successor or successors to their functions and duties, and the Governor shall present to the Secretary of State of Alabama a declaration signed by them, which shall set forth: (a) The name, official designation and official residence of the applicants, together with a certified copy of the commission evidencing their right to office, the date and place of induction into and taking oath of office, and that they desire to become a Corporation under this Act; (b) The term of office of the applicants, and the place where, if any, the official commission of applicants is kept of record; (c) The name of the Corporation shall be Alabama State

Highway Corporation; (d) The location of the principal office of the proposed corporation, (which shall be Montgomery, Alabama); (e) The declaration shall be subscribed and sworn to by each of the applicants before an officer authorized by the laws of the State of Alabama to take and certify oaths, who shall certify upon the declaration that he personally knows the applicants and believes them to be the officers as asserted in the declaration, and that they each subscribed and swore thereto in the officer's presence. The Secretary of State shall examine the declaration and if he finds that the name proposed for the Corporation is not identical with that of a person or of any other corporation in this State, or so nearly similar thereto as to lead to confusion and uncertainty, he shall receive and file the declaration, and shall record it in an appropriate book of record in his office.

Section 3. When the declaration has been made, filed and recorded, as herein provided, the applicants shall constitute a public corporation under the name proposed in the declaration; the Secretary of State shall make and issue to the applicants a certificate of incorporation, pursuant to this Act, under the seal of the State and shall record the same with the declaration.

Section 4. The corporation under this Act shall have the following powers and such as shall be incidental or necessary to the discharge thereof in corporate form: (a) To have succession by its corporate name for twenty years. (b) To sue and be sued and defend, and to make and use a corporate seal and to alter the same at pleasure. (c) To receive, take and hold by sale, gift, lease, devise or otherwise, real and personal estate of every description, and to manage and dispose of the same by any form of legal conveyance or transfer, with full power and authority to borrow money and to convey by mortgage or deed of trust; to acquire, hold, purchase, receive by bequest or devise, and to convey or otherwise dispose of all such real, personal and mixed property as may be necessary or convenient for the construction of roads and bridges and approaches thereto in the State of Alabama, or for constructing, reconstructing, or relocating roads and bridges in the State of Alabama or for purposes related thereto or deemed in aid thereof; to borrow money, to issue, sell or pledge notes, bonds, assignments, warrants, debentures, bearing such rates of interest as may be approved by the Governor; to mortgage, pledge or otherwise convey its property or proceeds of appropriations to secure the payment of money received by such Corporation; to receive from the several counties of the State of Alabama interest bearing warrants of such counties, secured by a pledge of the proceeds of gasoline tax appropriated from time to time to the counties by the State or any part or percentage thereof or any other fund or security, in payment of or to secure the payment of the county's portion of the cost of any roads or bridges built in such county, and the Corporation may sell such county warrants, or borrow money on the security thereof, provided that any funds received from the sale of the warrants of any county or the proceeds of any loan made on the security

of the warrants of any county, shall be expended in such county. (d) To appoint and employ such officers and agents as the business of the corporation may require. (e) To enter into contracts with counties, The State Highway Commission of Alabama or other agency performing any of the functions thereof, road district authorities, persons, firms or corporations, Federal Emergency Administrator of Public Works, and any other branch of the Federal Government, in furtherance of its public purposes and objects, either relative to the work done or to be done. (f) To wind up and dissolve itself, or be wound up and dissolved in the manner in this Act provided.

Section 5. The main purpose of the Corporation shall be to construct or participate in the construction or lend its aid in construction or contract for construction or finance the construction of roads and bridges in the State of Alabama, as well as the approaches thereto, including the reconstruction, relocation, approaches, causeways, and like or other highway facilities.

Section 6. One-twelfth of the excise tax on gasoline as levied in Schedule 156.1 and defined in Schedule 156 of Chapter Four, Article XIII of House Bill 324 (Act No. 194 of the Alabama Legislature approved July 10, 1935) shall for a period of five years from the date of approval of this Act be paid over monthly by the State Department of Revenue to the State Treasurer of Alabama for the exclusive use of the Corporation authorized by this Act. The said one-twelfth of such gasoline tax so appropriated to the use of said corporation shall be taken from the part allocated to the State of Alabama under Schedule 156.11 of said Act, and not from the part allocated to the several counties of this State.

Section 7. In addition to the funds provided in Section 6 of this Act, and to further secure the payment of the notes, bonds, assignments, warrants, debentures, or other evidences of debt issued by the Alabama State Highway Corporation, and after provision has been made for the payment or discharge of the primary obligations or charges against said fund as set out in Schedule 156.10 of said Act No. 194, above referred to, there shall be paid into the State Treasury of Alabama, by the Department of Revenue of Alabama, upon approval of the Governor of Alabama, for the exclusive use of the Alabama State Highway Corporation fifty thousand dollars per month, or so much thereof as may be necessary, out of the residue of the excise tax levied in Schedule 156.1 of Chapter Four, Article XIII of Act No. 194 of the Legislature of Alabama, approved July 10, 1935. The appropriation provided for in this section shall be taken from the part allocated to the State of Alabama under schedule 156.11 of said act and not from the part allocated to the several counties of this State.

Section 8. (a) The proceeds of all securities issued or contracts entered into shall be turned into the State Treasury, and together with the said excise tax as collected shall be carried in the public road and bridge account, and shall be subject to be drawn on by the State High-

way Department, upon the approval of the Governor, but solely for the purpose of building and constructing roads and bridges or work incidental or related thereto herein authorized. All contracts entered into by the corporation in connection with the building of these roads and bridges shall be in writing, prepared or approved by the Attorney General of the State of Alabama, and in conformity with the requirements of the State Highway Commission, and all contracts shall be approved by the Governor. The corporation shall make and enforce all reasonable rules and regulations not inconsistent with the terms of this Act, as may in its opinion be proper and suitable for the protection of said roads, bridges, approaches and appurtenances, and for the safety of the traveling public. (b) The State Treasurer shall be the Custodian of all funds and securities of the Corporation and shall act without compensation.

Section 9. Any corporation under this Act may be dissolved by the applicants or their successors filing with the Secretary of State their application therefor, which shall be subscribed, sworn to and certified as in the case of a declaration for incorporation. Upon the filing of said certificate, the corporation shall cease, and all of its property rights shall pass to the State of Alabama, but no applicant shall be responsible for liabilities of the dissolved corporation in any greater sum than the value of the property of such corporation which may come into his possession under its dissolution. The Secretary of State shall record the application for dissolution and shall make and issue under the seal of the State his certificate that the corporation is dissolved, and shall record the certificate with the application for dissolution, but such dissolution shall not affect adversely rights attaching under existing contracts; and the corporation shall be deemed to continue for suit or defense.

Section 10. Should any applicant or incorporator under this Act die, resign or be removed from office before the dissolution of the corporation, his successor in office shall take his place and official position as a member of said corporation.

Section 11. There shall be no fees paid to the Secretary of State for any work in connection with the incorporation or dissolution of the corporation.

Section 12. Any record kept or certificate issued in pursuance of this Act, or a copy of any such record certified to be true by the legal custodian thereof, shall be received in evidence in all courts, and shall be prima facie evidence of the facts therein received, or thereby shown.

Section 13. The President of said corporation shall be the person filling the highest executive position in the State Highway Department of Alabama, and the Vice-President and the Secretary shall be selected and designated by the members of the corporation.

Section 14. No officer of the corporation shall draw any salary in addition to that now authorized by law for his services, in connection with said corporation.

Section 15. The Legislature of Alabama now elected, or hereafter elected shall not be estopped on account of the passage of this bill or the authorizing of warrants or other securities to be issued by said corporation from at any time repealing the tax herein appropriated to said corporation. No warrant or other security issued by said corporation shall be the debt of the State of Alabama, nor shall the State of Alabama or its general faith and credit, be pledged to the payment of said obligations and said obligations shall not in any event be deemed or considered a debt or obligation of the State of Alabama, but the purchaser or assignee or holder of any such securities, warrants or transfers issued by such corporation shall look solely to funds actually appropriated to and under control of said corporation for the payment of said warrants, transfers or securities. No sale or transfer of any securities or taxes made by the corporation shall be valid unless the same is approved by the Governor of Alabama.

Section 16. Said corporation, when formed, may make such contracts or agreements with the State Highway Department of Alabama as may be necessary to carry out the purpose of this Act; and it may turn over to the State Highway Department any and all funds of this corporation from time to time as may be necessary or proper for the most economical construction of such roads and to comply with all Federal or other Legislation relating to State Highway Department, Federal Aid Roads or other Federal monies. The securities issued by said corporations shall be signed by the President, attested by the Secretary selected by said corporation and shall be countersigned by the Secretary of the State of Alabama, who shall affix to such instruments the official seal of the State of Alabama.

Section 17. (a) The total issuance of notes, warrants, or other evidences of indebtedness of the corporation outstanding at any one time shall not exceed the sum of two million five hundred thousand dollars, and said notes, warrants, and other evidences of indebtedness of the Corporation shall be for such terms and bear such rates of interest as may be approved by the Governor. The corporation may sell its securities at public or private sale. The State Treasurer shall record all warrants and other securities and note thereon the funds from which payable. (b) The notes, warrants, and other securities of the corporation and the interest thereon shall be free of taxation in the State of Alabama. (c) All warrants or other evidences of indebtedness of counties acquired by the corporation shall be prepared, issued and delivered at the expense of the issuing County.

Section 18. "An Act, To provide for a public corporation for the purpose of constructing or causing to be constructed public roads and bridges in this State; to prescribe its powers and duties and to provide for the raising of necessary funds for such purpose and to provide for the payment of the cost of construction of such roads and bridges and to borrow money and match Federal funds for public work construction and to issue bonds, warrants, assignments, transfers or securities and

to contract with the State Highway Commission of Alabama, the Public Works Administration and any other branch of Federal Government or other authorities necessary to carry out the purposes of this Act," be and the same is hereby repealed and all amendments thereto be and are hereby repealed.

Section 19. This Act shall take effect immediately upon its passage and approval.

Section 20. Should any provision of this Act be declared unconstitutional, it shall not affect the remaining part of the Act.

Approved February 21, 1939.

No. 40)

(H. 60—Davis of Montgomery)

AN ACT

To appropriate the sum of Ten Thousand (\$10,000.) Dollars, or so much thereof, as may be necessary to furnish and equip the Governor's mansion in the City of Montgomery.

Be it Enacted by the Legislature of Alabama:

Section One: That there be and is hereby appropriated from the general funds of the State of Alabama, the sum of Ten Thousand (\$10,000) Dollars, or so much of said sum as may be necessary to properly furnish and equip the Governor's mansion in Montgomery, Alabama, including furniture, carpet, rugs, draperies, kitchen utensils and equipment, and such other items as may in the discretion of the Governor be necessary to properly furnish said mansion.

Section Two: That the sum expended hereunder shall be disbursed on the warrants of the Governor.

Approved February 17, 1939.

No. 41)

(S. 81—Lusk)

AN ACT

"To amend an Act entitled, "To provide for the government and control by civil service regulations of the police departments and fire departments in cities of the State of Alabama operating under the Commission form of government and which now have or which may hereafter have a population of as much as twenty thousand and less than fifty thousand people, according to the latest or any succeeding Federal Census; to provide for a Civil Service Board in such cities and fix their duties, authority, powers, and compensation." Approved August 4, 1931. (1931 Acts, page 676), by amending Section 22 of said Act to provide thereby that all cities hereafter coming under the terms of this Act shall have a period of ninety days in which to reorganize police and fire departments thereof:

Be it Enacted by the Legislature of Alabama:

Section 1. That Section 22 of an Act entitled, "To provide for the government and control by civil service regulations of the police depart-

ment and fire department in cities of the State of Alabama operating under the Commission form of government and which now have or which may hereafter have a population of as much as twenty thousand and less than fifty thousand people, according to the latest or any succeeding Federal Census; to provide for a Civil Service Board in such cities and fix their duties, authority, powers, and compensation," be and the same is hereby amended to read as follows: "In all such cities hereafter coming under the terms and provisions of this Act, the governing bodies of such cities shall have a period of ninety days within which to reorganize the police and fire departments and determine who shall be members of the police and fire departments of any such cities, and after the expiration of any such ninety days, all members of the police and fire departments then in the employ of such cities, shall retain their respective positions without examination and be subject to all the conditions and benefits of this Civil Service Law. The rights, tenure of office, and status of all policemen and firemen now in the employ of any cities heretofore coming under the terms of this Act shall remain unimpaired and unchanged."

Approved February 17, 1939.

No. 42)

(H. 91—Smyer

AN ACT

To provide for the protection of bona fide purchasers from the executors, administrators, heirs at law, devisees, distributees, or anyone claiming under them, of property of the estate of a deceased person against the provisions of any will of such deceased which is not propounded for probate in this State within twelve months after the death of the death of the testator.

Be it Enacted by the Legislature of Alabama that:

Section 1. Any will which is not propounded for probate in this State within twelve months from the date of the death of the testator shall be inoperative and void as to bona fide purchasers, mortgagees or pledgees (and those claiming under them) of property or any interest therein from the executors, administrators, heirs at law, devisees, distributees of the estate of such deceased or anyone claiming under them, provided such purchasers acquire their interest in such property prior to the time such will is propounded for probate in this State and without actual notice of such will.

Section II. The provisions of this Act shall not affect the right of any beneficiary entitled thereto under any such will to follow the proceeds from the sale of any such property in lieu of such property in the hands of the executors, administrators, heirs at law or distributees of such estate.

Section III. This Act shall go into effect immediately upon its approval by the Governor of Alabama.

Approved February 20, 1939.

No. 43)

(H. 167—Merrill)

AN ACT

To amend an Act approved March 6, 1931, entitled "An Act to provide that all cities in Alabama which now have or may hereafter have a population of as much as twenty-four thousand and less than forty thousand, according to the last Federal Census, or any such census which may be hereafter taken, shall be known and designated as Class "D" cities; to provide and create a Commission form of municipal government and to establish the same in all Class "D" cities of Alabama as herein defined; to abolish the offices of Mayor and Aldermen and otherwise provide for the creation and maintenance of said Commission form of government; to provide for the selection and election of a chairman and two associate commissioners in lieu of mayor and aldermen; to prescribe limitations and qualifications for officers and employes and penalties for violation of the provisions of this Act. To Fix the Duties, powers and Compensation of the Board of Commissioners,—” approved March 6, 1931, and to amend an Act approved March 24, 1936, entitled "An Act to Amend Section 2 of an Act 'To provide that all cities in Alabama which now have or may hereafter have a population of as much as twenty-four thousand and less than forty thousand, according to the last Federal Census, or any such census which may hereafter be taken, shall be known and designated as Class 'D' cities; to provide and create a Commission form of municipal government and to establish the same in all Class 'D' cities of Alabama as herein defined; to abolish the offices of Mayor and Aldermen, and otherwise to provide for the creation and maintenance of said commission form of government; to provide for the selection and election of a chairman and two associate commissioners in lieu of mayor and aldermen; to prescribe limitations and qualifications for officers and employes and penalties for violation of the provisions of this Act. To Fix the Duties, powers and Compensation of the Board of Commissioners,—” approved March 6, 1931, and to provide that this amendment shall be applicable to all cities in Alabama which now have or may hereafter have a population of as much as twenty-two thousand and less than sixty thousand, according to the last and any subsequent Federal Census.

Be it Enacted by the Legislature of Alabama:

Section 1. That an Act approved March 6, 1931 (1931 Acts, p. 174) entitled an Act "To provide that all cities in Alabama which now have, or may hereafter have, a population of as much as twenty-four thousand, and less than forty thousand, according to the last Federal Census, or any such census as may hereafter be taken, shall be known and designated as Class 'D' cities; to provide and create a Commission form of municipal government and to establish the same in all Class 'D' cities of Alabama as herein defined; to abolish the offices of Mayor and Aldermen and otherwise provide for the creation and maintenance of said commission form of government; to provide for the selection and

election of a chairman and two associate commissioners in lieu of mayor and aldermen; to prescribe limitations and qualifications for officers and employes and penalties for violation of the provisions of this Act. To Fix the Duties, powers and compensation of the Board of Commissioners," and as amended by an Act approved March 24, 1936, (1936 Acts, p. 23), entitled "An Act to amend Section 2 of an act 'To provide that all cities in Alabama which now have or may hereafter have a population of as much as twenty-four thousand and less than forty thousand according to the last Federal Census, or any such census which may hereafter be taken, shall be known and designated as Class 'D' cities; to provide and create a Commission form of municipal government and to establish the same in all Class 'D' cities of Alabama as herein defined; to abolish the offices of Mayor and Aldermen and otherwise provide for the creation and maintenance of said commission form of Government; to provide for the selection and election of a chairman and two associate commissioners in lieu of mayor and aldermen; to prescribe limitations and qualifications for officers and employes and penalties for violation of the provisions of this Act. To fix the Duties, powers and Compensation of the Board of Commissioners," approved March 6, 1931, be and the same is hereby amended so as to read as follows: "Section 1. All cities in the State of Alabama which now have a population of as much as twenty-two thousand and less than sixty thousand according to the last Federal Census, or which hereafter shall have such a population according to any such census that may hereafter be taken, shall be known as Class 'D' cities and the provisions of this Act shall apply only to such cities.

"Section 2. That upon the passage and approval by the Governor of this Act, the offices of mayor and aldermen in Class 'D' cities be and the same are hereby abolished, and there is created in lieu thereof a Commission Form of Government, which shall consist of a Chairman and two Associate Commissioners who shall be appointed by the Governor of Alabama, and whose terms of office shall be until the first Tuesday in October, 1942. On the first Tuesday in September, 1942, and every four years thereafter, and as herein provided, a Chairman and two Associate Commissioners shall be elected, and the General Election Laws of Alabama shall govern the conduct of such elections except as otherwise provided herein. Vacancies in said offices before the expiration thereof shall be filled by the remaining Commissioners and shall hold office for such unexpired term.

"Section 3. The territorial limits of such city shall remain the same as under its former organization, except that all divisions into wards of such municipality shall be abolished, and all commissioners shall be elected at large.

"Section 4. The Chairman and the Associate Commissioners provided for in this Act shall be known collectively as the 'Board of Commissioners of the City of _____' (name of the city to be inserted), and it shall have the powers hereinafter provided. The first

Commissioners appointed under the provisions of the Act shall qualify for office in the manner prescribed by this Act and shall take office within ten days after their appointment, or as soon thereafter as they may have qualified; and as soon as they have qualified for office in any such City, then such City shall at that time and thereby become organized under the Commission Form of Government provided for by this Act, and said Commissioners shall forthwith take office and enter upon their duties and assume the duties of such office.

"Section 5. Such Board of Commissioners shall be municipal officers only, and shall have, possess and exercise the municipal powers, legislative, executive and judicial, now or hereafter conferred upon municipalities and governing bodies thereof. All laws governing such city, and not inconsistent with the provisions of this Act, shall apply to and govern said city after it shall become organized under the commission form of government provided by this Act. All laws, ordinances and resolutions lawfully passed and in force in any such city under its former organization not inconsistent with the provisions of this Act, shall remain in force until altered or repealed, according to the provisions of this Act. All employees of said city and all officials except those whose terms of office are abolished by this Act shall continue in office until otherwise provided by said board of commissioners.

"Section 6. In such Class 'D' Cities the management and control of the public schools therein shall be vested in a Board of Education as provided by law.

"Section 7. Every Class 'D' City shall be governed and managed by the Board of Commissioners as herein provided, and each and every officer and employee of such city except the health officer and such person as may be employed by him to enforce quarantine, and such other officers and employees as are designated in this Act, shall be selected and employed by the said Board of Commissioners, under its direction, and all salaries and wages paid by said city except as otherwise provided by the terms of this Act, shall be fixed by said Board of Commissioners; where not otherwise provided in this Act, the Commissioners shall prescribe and may at any time change the powers, duties and titles of all subordinate officers and employees of said city, except the title of city health officer, all of whom except those herein otherwise specified shall hold office and be removable at the pleasure of the Board of Commissioners.

"Section 8. (a) The Chairman of the Board shall have direct supervision over the department of public affairs, public safety, public health, city buildings and property, shall be chairman of all meetings of the Board and shall have general supervision over all matters pertaining to the government of such city; (b) One associate member shall have supervision of the departments of streets, parks, public improvements and public utilities; (c) One associate member shall have supervision over the department of finance and taxation, accounts and accounting, budget and appropriation. The powers and duties pertaining to each

of said departments shall be fixed by the Board of Commissioners, and altered from time to time by them as they may deem best. Provided the administration of each department shall be under the supervision and control of the Board of Commissioners as a whole, and such Board shall be responsible therefor.

"Section 9. Said Board of Commissioners shall hold regular public meetings on Tuesday of each and every week at some regular hour to be fixed by said board from time to time, and publicly announced by it, and it may hold such adjourned, called and other meetings as may be necessary or convenient. The President of the Board, when present, shall preside at all meetings of said board, but shall have no veto power. A majority of the total number of members of said Board shall constitute a quorum for the transaction of any and every business to be done by said Board, and for the exercise of any and every power conferred upon it; and the affirmative vote of a majority of the total number of members of said board shall be necessary and sufficient for the passage of any resolution by law or ordinance, for the transaction of any business of any sort by said Board or the exercise of any of the powers conferred upon it by the terms of this Act or that may hereafter be conferred upon it by law. This provision shall not be construed, however, so as to prevent the said board from delegating or assigning to one or more of its members, or to such boards, commissioners, officers or employees as may be created or selected by it, the performance of such executive or judicial duties and powers that are by this Act vested in said Board of Commissioners, as may be necessary or convenient, provided the same is done by resolution, by-law or ordinance duly enacted according to the terms of this Act where not otherwise provided. All meetings of the Board shall be open to the public. No resolution, by-law or ordinance granting any franchise, appropriating any money for any purpose, providing for any public improvements enacting any regulations concerning the public comfort, public safety or public health or of any other general or permanent nature shall be enacted, except at a regular or adjourned public meeting of said Board, provided that a meeting of the Board of Commissioners may be called at any time to consider and act upon an emergency that involves the public safety or public health when not otherwise herein provided. Every motion, resolution or ordinance introduced at any and every such meeting shall be reduced to writing and read before any vote thereon shall be taken and the yeas and nays thereon shall be recorded, a record of the proceedings of every such meeting shall be kept in a well bound book and every resolution and ordinance passed by the Board of Commissioners must be recorded in such book and a record of the proceedings of the meeting be signed by at least two of the Commissioners before the action taken shall be effective, such record shall be kept available for inspection by all citizens of such city, at all reasonable times.

"Section 10. No ordinance granting any franchise, lease or right to use the public highways, or public property of any City organized under

the provisions of this Act, shall take effect and be in force until thirty days after the final enactment of the same by the Board of Commissioners and publication of said ordinance as provided by law, which publication shall be made at the expense of the persons, firm or corporation applying for said grant.

"Section 11. In all elections each office of Commissioner to be filled shall be designated, the associate commissioners being designated as associate commissioner numbers one and two respectively, and this shall be shown on the ballot prepared for such election. In filing statement of candidacy each candidate shall designate for which place he desires election. At every election each voter shall vote for only one candidate for each office and the candidate receiving the highest number of votes for such office shall be elected, provided he receives a majority of all votes cast for such office. In case no one of such candidates shall receive a majority of all such votes cast for the office for which he is a candidate another election shall be held on the same day of the following week for said officer at which the two candidates receiving the highest number of votes at the initial election for said office shall be voted for. The candidate receiving the highest number of votes at such final election shall be declared elected. Candidates declared elected shall qualify and take oath of office on the first Monday in October next following said election.

"Section 12. The Chairman of such Commission is required to devote his entire time to the duties of his office and shall maintain an office at the city hall and be present thereat during reasonable hours when not otherwise absent therefrom on other duties of the City, and on account of such increased duties and requirements herein provided for, hereafter the salary of the Chairman of the Commission shall be Forty-Two Hundred (\$4200.) dollars per annum; the two Associate Commissioners shall be required to make bi-monthly inspections of the various departments and the property of the city, including the streets, sewers and other phases of the city within their respective departments and on account of such increased duties hereafter the salaries of the Two Associate Commissioners shall be Twenty-One Hundred (\$2100) dollars each per annum, all such salaries to be divided into twelve equal monthly payments to be paid out of the general funds of said city on the first day of each month. The payment of all funds out of the treasury shall be by warrants signed by the Chairman of such Board, but no funds may be paid out for any purpose except by resolution or ordinance duly passed making such appropriation. The Board may elect one of their number to act as Recorder or Municipal Judge who shall try all cases arising from the violation of city ordinances or other laws over which such courts may have jurisdiction."

"Section 13. Each Commissioner shall before entering upon the duties of his office, give a good and sufficient bond, which shall be executed by a Bonding Company authorized to do business in Alabama, payable to and for the use and benefit of any such city in the sum of

Ten Thousand Dollars, conditioned upon the faithful discharge of his duties, and that he will save such city harmless from all loss caused by his neglect of duty, misfeasance in office or for the willful expenditure of any moneys of such city, in violation of law, and said bond before being accepted shall be approved by the Judge of Probate in and for the County wherein such city is situated. The premiums on such bond shall be paid out of the city treasury. No members of the Commission nor any person holding an office of profit under them, shall hold any office of profit or trust under the laws of any State of the United States, or hold any County office; nor shall any Commissioner ever be elected or appointed to any office created by or the compensation of which was increased or fixed by the Commission, while he was a member thereof within two years therefrom.

"Section 14. No officer or employee elected or appointed by any such city shall be interested, directly or indirectly, in any contract for work or material, for the profits thereof, or service to be furnished or performed for the city. No person who is related by consanguinity or affinity nearer than the fifth degree to any commissioner shall be allowed employment by election or appointment or receive compensation for services rendered such city. Any person violating any provision of this section shall upon conviction be guilty of a misdemeanor and any elective officer violating this section shall be guilty of malfeasance in office and shall be punished as provided by the laws of the State of Alabama. Any elective officer shall be subject to all the pains and penalties and enjoy all the privileges and immunities as provided by the Constitution and General Laws of the State of Alabama applicable to such officials. The Commissioners shall be qualified electors residing within the corporate limits of such City."

"Section 15. At the end of each fiscal year the books and accounts of such City shall be audited by a reputable, disinterested and certified accountant and such report shall be certified to by the City Clerk and attested by the members of the Commission and published in pamphlet form, and printed copies furnished to newspapers of city and to persons who apply therefor. The Governor is authorized at any time to have all the books and accounts of such city examined by the State Examiner of public accounts, the cost of such examination shall be paid by such city upon the presentation to the Commissioner of a duly verified statement of such expense made by such examiner of public accounts, approved by the Governor.

"Section 16. Except as otherwise expressly provided in this Act, all General and Local laws and parts of laws in conflict with this Act, be and the same are hereby repealed. This Act shall take effect immediately upon its passage and approval by the Governor."

Paragraph II. Provided that the organization and operation of all cities now operating under the provisions of the statute hereby amended, and the tenure of office of the Commissioners of said cities, shall remain

unaffected by this amendment unless otherwise expressly provided by this amendment.

Paragraph III. No general law hertofore enacted based upon a population classification shall by reason of a change in the status of any Class 'D' City coming under the operation of this Act by the 1940 Federal Census, or any subsequent census, operate in any way to alter or change the compensation, duties, authority, formation or jurisdiction of any of the Class 'D' Cities hereby created and provided for in this Act.

Paragraph IV. The provisions of this Act, and each separate paragraph, phrase or sentence, shall be separable, and if any of such provisions herein, or any part thereof, shall be held to be unconstitutional, it shall not affect the validity of any and all of the remaining provisions hereof.

Approved February 17, 1939.

No. 44)

(H. 14—Snyder

AN ACT

To amend Section 7417 of the Code of Alabama of 1923 regarding Alimony pendente lite.

Be it Enacted by the Legislature of Alabama:

Section One; That Section 7417 of the Code of Alabama of 1923 be amended so as to read as follows: "Section 7417;—ALLOWANCE TO WIFE PENDING SUIT: Pending suit for divorce, the court may make an allowance for the support of the wife, out of the estate of the husband, suitable to his estate, and the condition in life of the parties for a period of time not longer than necessary for the prosecution of her bill for divorce."

Section Two: That this Act shall become effective upon its passage and approval by the Governor.

Section Three: That all laws and parts of laws in conflict herewith are hereby repealed.

Approved February 24, 1939.

No. 46)

(H. 105—Welch

AN ACT

Relating to, authorizing and providing for the grant of letters of administration upon the estates of persons presumed to be dead by reason of their absence from their former domicile for seven years or more; providing to whom such letters of administration may be granted; the administration of the estates of such persons; fixing the statutes of limitations with respect thereto, and generally providing for such administration, and the disposition and distribution of the estates of such persons including the qualifications of witnesses to testify in such proceedings, and to repeal all laws in conflict with this act.

Be it Enacted by the Legislature of Alabama:

Section One: That hereafter it shall be lawful for the respective Probate Courts of this State to appoint Administrators of the estates of persons who are presumed to be dead on account of absence for seven or more years from the place of his or her last domicile within this State as in this act provided.

Section Two: That whenever hereafter letters of administration on the estate of any person presumed to be dead on account of absence for seven or more years from the place of his or her last domicile within this State shall be applied for, it shall be the duty of the Judge of Probate to whom the application shall be made to accept and file the same, and to thereupon take the testimony with respect to whether the petitioner is entitled to such letters, and if the court is satisfied by the testimony that the applicant would be entitled thereto, were the supposed decedent in fact dead, shall cause to be advertised in a newspaper published in the county, once a week for four consecutive weeks, the fact of said application, together with notice that on a day certain which shall be at least two weeks after the last of said advertisements, the court will hear evidence concerning the alleged absence of the supposed decedent, and the circumstances, and duration thereof.

Section Three: At the hearing the Probate Court shall take such legal evidence as shall then be offered for the purpose of ascertaining whether the presumption of death is established, and no person shall be disqualified to testify by reason of his or her relationship as husband, or wife, to the supposed decedent, or of his or her interest in the estate of the person supposed to be dead.

Section Four: If satisfied upon the hearing that the legal presumption of death is made out, the court shall so decree and shall forthwith cause notice thereof to be inserted for two successive weeks in a newspaper published in the County, and also when practicable, in a newspaper published at, or near, the place shown in the commonwealth, where, when last heard from, the supposed decedent had his, or her residence. The said notice shall require the supposed decedent, if alive, or any other person for him, or

her, to produce to the court within twelve (12) weeks from the date of its last insertion, satisfactory evidence of his, or her continuance in life.

Section Five: If within the period of said twelve (12) weeks evidence satisfactory to the Probate Court of the continuance in life of the said decedent shall not be forthcoming, it shall be the duty of the court to issue the letters of administration to the party thereto entitled, and the said letters, until revoked, and all acts done in pursuance thereof, and in reliance thereupon, shall be as valid as if the supposed decedent were really dead.

Section Six: The Probate Court may revoke the said letters at any time on due and satisfactory proof that the supposed decedent is in fact alive; after which revocation all the powers of the administrator shall cease, but all receipts, or disbursements of assets, and other acts previously done by him, or her, shall remain as valid as if the said letters were unrevoked; and the administrator shall settle an account of his, or her, administration, down to the time of such revocation, and shall transfer all assets remaining in his, or her hands to the person as whose administrator, he, or she had acted, or to his, or her duly authorized agent, or attorney, provided, nothing in this act contained shall validate the title of any person to any property or money received as widow, or next-of-kin, or heir, of such supposed decedent, but the same may be recovered from such person in all cases in which such recovery would be had, if this act had not been passed. Provided Further, that before any distribution of the proceeds of the estate of such supposed decedent, the persons entitled to receive the same shall respectively give sufficient real personal security to be approved of by the Probate Court having jurisdiction in such sum, and form, as the court shall direct, with condition that if the said supposed decedent shall in fact be at the time alive, they will respectively refund the amounts received by each on demand, with interest thereon; but, if the person, or persons entitled to receive the same, is, or are, unable to give the security aforesaid, then the money shall be put at interest on security approved by said court, which interest is to be paid annually to the person entitled to it, and the money to remain at interest until the security aforesaid is given, or the Probate Court, on application shall order it to be paid to the person, or persons entitled to it.

Section Seven: After revocation of the letters, the person erroneously supposed to be dead, may, on suggestion filed of record of the proper fact, be substituted as Plaintiff in all actions brought by the administrator, whether prosecuted to Judgment, or otherwise. He may in all actions previously brought against his administrator be substituted as Defendant on proper suggestion filed by him, or by the Plaintiff therein, but shall not be compelled to

go to trial in less than three months from the time of such suggestion filed. Judgments recovered against the administrator before revocation, as aforesaid, of the letters may be opened on application by the supposed decedent made within three months from the said revocation and supported by affidavit denying specifically on the knowledge of the affiant the cause of action, or specifically alleging the existence of facts, which would be a valid defense; but, if within the said three months, such application shall not be made, or being made, the facts exhibited shall be adjudged an insufficient defense, the judgment shall be conclusive to all intents, saving the Defendant's right to have it reviewed, as in other cases, by certiorari, or writ-of-error, or by appeal, whichever is applicable under the practice then prevailing in this State with respect thereto.

Section Eight: The costs attending the issue of letters, or their revocation shall be paid out of the estate of the supposed decedent; and costs arising upon an application for letters which shall not be granted, shall be paid by the applicant.

Section Nine: That all laws in this State with respect to procedure in the administration of estates of deceased persons which are not in conflict herewith, are made applicable to proceedings hereunder insofar as they are not in conflict herewith.

Approved February 24, 1939.

No. 47)

(H. 178—Hardwick

AN ACT

To provide for and authorize the election of a Recorder by the Board of Commissioners in all Cities in the State of Alabama, which now have a population of 15,000 and less than 50,000 people, according to the last Federal Census or which hereafter may have such a population according to any such census that may hereafter be taken, and to authorize such Board of Commissioners to fix the salary or compensation of such Recorder, and to provide that such Recorder's term of office shall be at the will of the Commission and to fix the jurisdiction of such Recorder.

Be it Enacted by the Legislature of Alabama:

Section 1. That the Board of Commissioners in all Cities in the State of Alabama, which now have a population of 15,000 and less than 50,000 people, according to the last Federal census or hereafter may have such a population according to any such census that may hereafter be taken, may elect a Recorder for such City and fix the salary and compensation of such Recorder and such Recorder shall serve at the will or pleasure of said Board of Commissioners.

Section 2. That such Recorder shall have the power and right to try all cases arising from the violation of City Ordinances or other laws over which Recorders or Municipal Courts may now or

hereafter have jurisdiction, and also, all power and authority conferred upon Recorders in Article 18, Chapter 43 of the 1923 Code of Alabama, or which may hereafter be conferred by law on Recorders of Municipalities.

Section 3. All laws and parts of laws in conflict with this Act are repealed, except where Cities coming within the classes above set out are governed by special enactment or charters.

Section 4. This Act shall be effective immediately upon its passage and approval.

Approved February 24, 1939.

No. 48)

(H. 180—Snyder

AN ACT

To provide that in computing the net income of Credit Unions for purposes of the excise tax levied by Article XII, Chapter I, of an Act entitled, "To provide for the General Revenue of the State of Alabama," approved July 10, 1935, there shall in addition to all other deductions provided by law, be deducted the amount paid out as dividends on the withdrawable shares thereof.

Be it Enacted by the Legislature of Alabama:

Section 1. That in computing the net income of credit unions for the purpose of the excise tax levied by Article XII, Chapter I, of an Act entitled "To Provide for the general revenue of the State of Alabama," approved July 10, 1935, there shall in addition to all other deductions allowed by law, be deducted the amount paid out as dividends on the withdrawable shares of such credit union.

Approved February 24, 1939.

No. 49)

(H. 181—Welch

AN ACT

To Authorize Municipalities Of 200,000 Or More Population According To The Last Or Any Succeeding Federal Census To Prescribe The Maximum Lawful Speed Of Motor Vehicles In Such Municipalities, And The Police Jurisdiction Thereof, And To Authorize Such Municipalities To Provide Penalties For the Violation Of Ordinances Establishing Such Maximum Lawful Speed.

Be it Enacted by the Legislature of Alabama:

Section 1. Anything in any law to the contrary notwithstanding, any municipality having a population of 200,000 or more according to the last or any succeeding Federal Census may prescribe by ordinance the maximum lawful speed, or lawful maximum speeds, for motor vehicles in such municipality, and in the police

jurisdiction thereof. Any such municipality may also prescribe different lawful maximum speeds for different portions of, or upon different streets or highways of, or upon different parts of the same street or highway of, such municipality. Any such municipality may provide by ordinance that it shall be unlawful to operate a motor vehicle at a speed in excess of, or greater than, the maximum lawful speed prescribed.

Section 2. Any such municipality may provide that a person, upon conviction of violating any ordinance authorized by Section 1 hereof, shall be punished in any manner provided by Section 1936 of the Code of Alabama of 1923.

Section 3. All laws or parts of laws, whether local, general or special, in conflict with the provisions hereof are hereby repealed.

Approved February 24, 1939.

No. 50)

(H. 225—Welch

AN ACT

To amend Sections 853, 855 as amended by an act approved February 4, 1927, 865, 867, 868 and 871 of the Code of Alabama of 1923, and to repeal all laws and parts of laws, general or special, in conflict herewith.

Be it Enacted by the Legislature of Alabama:

Section 1. That Section 853 of the Code of Alabama of 1923 be and the same is hereby amended to read as follows: Section 853. HIS DUTIES.—He shall keep his office at the capitol, and perform the following duties, viz: 1. He must give his opinion in writing, or otherwise, on any question of law connected with the interests of the state, or with the duties of any of the departments, when required by the governor, secretary of state, state auditor, state treasurer, superintendent of education, commissioner of agriculture and industries, state comptroller, state health officer, public service commissioners, commissioner of conservation, or the commissioner of the department of revenue, or any other officer or department of the state when it is made, by law, his duty so to do; and he shall also give his opinion to the chairman of the judiciary committee of either house, when required, upon any matter under the consideration of the committee. 2. He must, on the application of the governor, prepare all contracts and writings in relation to any matter in which the state is interested. 3. He must attend, on the part of the state, to all criminal cases pending in the supreme court or court of appeals, and to all civil suits in which the state is a party in the same courts. He shall also attend to all causes other than criminal that may be pending in the courts of Montgomery county, in which the state may be in any manner concerned; and when required so to do by the governor, in writing, shall appear in

the courts of other states, or of the United States, in any cause in which the state may be interested in the result. 4. He must superintend the collection of all notes for school lands which may be turned over to him by the superintendent of education; and for this purpose may appoint agents in different parts of the state. 5. He must for each three months period cause to be published in pamphlet form copies of such written official opinions as shall have been rendered by him during such period to the various departments and officials, who, under the law, have the right to require his opinion on matters affecting them or the operation of their offices or departments. He shall cause a sufficient number of said pamphlets to be printed to enable him to supply each probate judge in the state seven copies thereof and shall, as soon as practicable after publication, transmit the same to the probate judges of the several counties of the state, for the use of said probate judges and clerks of the circuit court, the sheriffs, the tax collectors, the tax assessors, the county superintendents of education, and the deputy or county solicitors of the several counties of the state. A copy of such report also shall be sent to each circuit solicitor in this state and to the chief executive officer of each incorporated municipality in this state. He must in the month of October of the last year of his term of office compile a report, which said report shall comprise and include such suggestions tending to the suppression of crime and the improvement of the criminal administration as he may deem proper. Such report shall also contain a statement of the number of criminal cases disposed of in the entire state for the past four years, as shown by reports of solicitors; and taking each character of cases separately, it shall show the number disposed of in each judicial circuit and in each criminal court or other court or territory having a separate solicitor, the number of convictions, the number of acquittals, the number of nolle prosequies entered, the number of cases which were abated or otherwise disposed of, the number of sentences to death, the number of sentences to the penitentiary, the number of other sentences, including fines imposed, and the totals under each head above mentioned. One copy of said report shall be retained in the permanent files of the office of the attorney general; and one copy thereof shall be transmitted to the governor, the clerk of the house of representatives and the secretary of the senate, and two copies thereof shall be transmitted to the department of archives and history. The expense of printing and binding all of the reports in this section provided for shall be paid by the state in the same manner as is now or hereafter may be provided for printing and binding for the state. 6. He shall keep and preserve, with proper indices thereto, press or carbon copies of all his official opinions and correspondence. 7. He shall keep, in a well-bound book with

proper index thereto, a docket of all civil suits and claims in which the state is in any manner concerned and to which he is required to give attention, showing the names and addresses of the parties, the nature and amount of the suit or claim, when and in what court suit was brought, and steps taken therein, and the final determination and result thereof; and, as to claims for collection, showing also, when and from whom the claims were received by him, and name and address of any agent or attorney to whom sent for collection and the date thereof, and, in all cases, the amount and date of each collection, the amount of commissions or other expenses deducted, if any, the net amount collected, when and to whom paid over, and the receipt of the officer therefor. 8. He shall carefully examine all of the general statutes now in force, or which hereafter may be enacted by the legislature from time to time, as to their clarity and constitutional validity. At the beginning of each session of the legislature, regular or special, he shall make a report in writing to the governor, and to the chairman of the judiciary committee of the house of representatives and of the senate, pointing out the laws or parts of laws of Alabama which have been held invalid by courts of last resort since the last session of the legislature; and also making suggestions as to inaccuracies; inadvertences, mistakes and omissions in statutes, which, in his opinion, should be corrected. Upon the codification of the statutes as is provided for in Section 85 of the Constitution, he shall advise with and assist the committees of the senate and house of representatives, or the joint committee of the legislature, charged with the duty of examining and investigating the documents submitted by the code commission or such other agency provided by law for the preparation of a code of laws for submission to the legislature. For the performance of the extra, new, and additional duties imposed on the attorney-general by this section the attorney-general shall receive an additional seventeen hundred dollars (\$1700) per annum as compensation, in addition to the salary now provided by law, said additional seventeen hundred dollars (\$1700) to be paid as the salaries of other state officers are paid.

Section 2. That Section 855 of the Code of Alabama of 1923 as amended by an act approved February 4, 1927 be and the same is hereby amended to read as follows: Section 855. **MAY APPOINT ASSISTANTS AND STENOGRAPHERS TO THE ATTORNEL-GENERAL.**—The attorney-general may appoint seven assistant attorneys-general and five stenographers and may remove them at his pleasure. The salaries of four of said assistant attorneys-general shall be thirty-six hundred dollars (\$3600) per annum and the salaries of three of said assistant attorneys-general shall be three thousand dollars (\$3000) per annum, payable in equal monthly installments as the salaries of other state officers are paid. The

salaries of two of said stenographers shall be fifteen hundred dollars (\$1500) per annum and the salaries of three of said stenographers shall be fourteen hundred dollars (\$1400) per annum, payable in equal monthly installments as other state employees are paid. In addition, the attorney-general, with the approval of the governor, may appoint such additional number of assistant attorneys-general as the public interest requires by reason of the volume of work in his office. The attorney-general, with the approval of the governor, shall fix the compensation of the additional assistant attorneys-general so employed, which shall be payable in equal monthly installments as the salaries of other state officers are paid.

Section 3. That Section 865 of the Code of Alabama of 1923 be and the same is hereby amended to read as follows: Section 865. **NECESSARY EXPENSES INCURRED; HOW PAID.**—The attorney-general may incur such expenses as may be necessary in the investigation of violations of the criminal law, in the prosecution of crime, and in the conduct, investigation and prosecution of any civil cause in which the state is interested or the state's revenue is involved, and such other incidental expenses of the office as may be necessary. The attorney-general and his assistants may incur such traveling expenses in the performances of their duties as may be necessary; and the like expenses of solicitors traveling in obedience to the direction of the attorney-general as prescribed by law shall be paid. All expenses incurred under the authority of this section must be approved by the attorney-general and the governor, and shall be paid by warrant as other state expenses are paid.

Section 4. That Section 867 of the Code of Alabama of 1923 be and the same is hereby amended to read as follows: Section 867. **ANNUAL APPROPRIATION.**—There is appropriated annually out of the state treasury a sum of money sufficient to meet the expenses incurred under the provisions of this act.

Section 5. That Section 868 of the Code of Alabama of 1923 be and the same is hereby amended to read as follows: Section 868. **ATTORNEY-GENERAL TO GIVE OPINION IN WRITING TO COUNTY OFFICERS.**—In addition to the duties of the attorney-general, as heretofore prescribed by law, the attorney-general shall give his opinion in writing, or otherwise, as to any question of law connected with the duties of the following county officers when requested so to do in writing: probate judge, clerk of circuit court, sheriff, county board of education, court of county commissioners, register in equity of the circuit court, tax collector, tax assessor, or any other officer required to collect, disburse, handle or account for public funds.

Section 6: That Section 871 of the Code of Alabama of 1923 be and the same is hereby amended to read as follows: Section 871. **LEGAL ADVISER TO PUBLIC SERVICE COMMISSION:**

ASSISTANT ATTORNEY-GENERAL.—The attorney-general, with the approval of the governor and the public service commission, may employ an assistant attorney-general whose compensation shall be fixed by the attorney-general, with the approval of the governor and the public service commission, and shall be paid out of any money appropriated to the public service commission for the purpose of employing clerks, assistants, accountants, engineers or other experts. Such assistant attorney-general shall, under the direction of the attorney-general, act as legal adviser of the public service commission, have charge of all litigation concerning the commission and its orders and perform such other duties as may be assigned him by the attorney-general.

Section 7. That all laws and parts of laws, general or special, in conflict with the provisions of this act be and the same are hereby expressly repealed.

Section 8. That this act shall take effect immediately upon its passage and approval by the governor or its otherwise becoming a law.

Approved February 21, 1939.

No. 51)

(S. 37—Stakely

AN ACT

To regulate the excusing of jurors in the Circuit Courts of Circuits composed of one County and having more than one Circuit Judge and less than three Circuit Judges.

Be it Enacted by the Legislature of Alabama:

Section 1.—That in the Circuit Courts of this State in Circuits composed of one County and having more than one Circuit Judge and less than three Circuit Judges, the judges of all such courts in which jurors have been drawn for duty for more than one week of the term or call of the docket may, in their discretion, by order entered on the minutes, excuse any juror drawn and summoned from attending the court and serving during the week for which he was drawn and summoned, and may require such juror to serve during some other week of the term or call of the docket for which jurors have already been drawn and summoned.

Section 2. This Act shall not apply to jurors drawn and summoned for the trial of Capital Cases in the Circuit Courts.

Section 3. This Act shall take effect upon its approval by the Governor.

Approved February 24, 1939.

No. 52)

(S. 38—Stakely

AN ACT

To repeal an Act approved October 25, 1932, and entitled "An Act to regulate the excusing of jurors in the Circuit Courts of every County in this State, which now have or may hereafter have, a population of as much as seventy-five thousand people and not more than one hundred thousand people, according to the last decennial census, or any such census which may hereafter be taken.

Be it Enacted by the Legislature of Alabama:

Section 1. The Act entitled: "An Act to regulate the excusing of jurors in the Circuit Courts of every County in this State, which now have, or may hereafter have, a population of as much as seventy-five thousand people and not more than one hundred thousand people, according to the last decennial census, or any such census which may hereafter be taken," approved October 25, 1932, be and the same is hereby repealed.

Approved February 24, 1939.

No. 54)

(S. 95—Stakeley

AN ACT

To repeal an Act entitled An Act "Relating to dependent, neglected or delinquent children in all Counties of Alabama, which now have, or which hereafter may have, a population of not less than seventy-five thousand people and not more than one hundred thousand people according to the last Federal Census or any such census that may be taken hereafter; to declare who are dependent, neglected or delinquent children, to declare that such children shall be wards of the State, to provide for their custody, discipline, supervision, care, protection, guardianship, and welfare; to create and establish in such counties Juvenile and Domestic Relations courts and to provide for their equipment and maintenance; to create and confer upon such courts jurisdiction under the terms of this Act; to try and determine the question of dependency, neglect, or delinquency of children in such counties; and when found to be such to adjudicate and determine all questions as to their guardianship, custody, supervision, discipline, care, control, protection and training, and generally to confer upon such court jurisdiction and power to try and determine all questions arising under the terms of this Act, or which may otherwise be referred to them by law for adjudication, or which may be necessary or convenient to the exercise of such jurisdiction or to carry out the purpose and intent of this Act; to provide for the trial and punishment of those who aid, abet, cause or connive at or contribute to the delinquency, neglect or dependency of such children; to provide and regulate the procedure in such cases; to confer power upon such courts to make rules and regulations; and to provide such forms when not otherwise provided for, under the terms of this Act as shall be found necessary or convenient to the exercise of its jurisdiction or for the conduct of probation officers or their work, as provided for in this Act; to provide for the taking and enforcing of recognizances and bonds; and for the taking of appeals from the decisions of such Court; to provide for the trial of any delinquent in a

criminal court of competent jurisdiction who has shown himself or herself to be unamenable to the discipline provided for such delinquent as provided under the terms of this Act; and for the appointment of an Advisory Board to such court and to define the duties and powers of such Court; to provide for the selection of the judge and other officers of such Court and to define their powers and duties; and to provide for their compensation; to declare that should any part of this Act be found unconstitutional that it shall not affect the remainder thereof and to provide for the repeal of all laws in conflict with this Act," approved February 26th, 1931, and as amended by an Act approved January 31, 1935 and an Act approved February 23, 1937, and to provide for the transfer of causes pending in the Courts created by said repealed Act to the Juvenile and Domestic Relations Courts that may hereafter be created or function in the Counties that were subject to said repealed Act.

Be it Enacted by the Legislature of Alabama:

Section 1. That an Act entitled an Act "Relating to dependent, neglected or delinquent children in all Counties of Alabama, which now have, or which hereafter may have, a population of not less than seventy-five thousand people and not more than one hundred thousand people according to the last Federal Census or any such census that may be taken hereafter; to declare who are dependent, neglected or delinquent children, to declare that such children shall be wards of the State, to provide for their custody, discipline, supervision, care, protection, guardianship and welfare; to create and establish in such counties Juvenile and Domestic Relations Courts and to provide for their equipment and maintenance; to create and confer upon such courts jurisdiction under the terms of this Act; to try and determine the question of dependency, neglect, or delinquency of children in such counties; and when found to be such to adjudicate and determine all questions as to their guardianship, custody, supervision, discipline, care, control, protection and training, and generally to confer upon such court jurisdiction and power to try and determine all questions arising under the terms of this Act, or which may otherwise be referred to them by law for adjudication, or which may be necessary or convenient to the exercise of such jurisdiction or to carry out the purpose and intent of this Act; to provide for the trial and punishment of those who aid, abet, cause or connive at or contribute to the delinquency, neglect or dependency of such children; to provide and regulate the procedure in such cases; to confer power upon such courts to make rules and regulations; and to provide such forms when not otherwise provided for, under the terms of this Act as shall be found necessary or convenient to the exercise of its jurisdiction or for the conduct of probation officers or their work, as provided for in this Act; to provide for the taking and enforcing of recognizances and bonds; and for the taking of appeals from the decisions of such Court; to provide for the trial of any delinquent in a criminal court of competent jurisdiction who has shown himself or herself to be unamen-

able to the discipline provided for such delinquent as provided under the terms of this Act; and for the appointment of an Advisory Board to such court and to define the duties and powers of such Court; to provide for the selection of the judge and other officers of such Court and to define their powers and duties; and to provide for their compensation; to declare that should any part of this Act be found unconstitutional that it shall not affect the remainder thereof and to provide for the repeal of all laws in conflict with this Act," approved February 26th, 1931, and as amended by an Act approved January 31, 1935 and an Act approved February 23, 1937, be and is hereby repealed.

Section 2. That all causes pending in the Courts created by said repeal Act, at the time this Act becomes operative, shall not abate but are by this Act transferred to the Juvenile and Domestic Relations Courts that may be created or function respectively in the Counties that were subject to the repealed Act, and the docket's official papers and records of such abolished Courts shall be delivered to such Courts that may be created or function respectively in such Counties, and shall be proceeded upon as if originally instituted in such Courts.

Section 3. Should any Section or part of this Act be held by any Court unconstitutional or invalid, such holding shall not affect the remainder thereof.

Section 4. All laws or parts of laws in conflict herewith are repealed.

Section 5. This Act shall take effect and be operative as soon as it becomes a law.

Approved February 24, 1939.

No. 55)

(H. J. R. 19—Peacock

HOUSE JOINT RESOLUTION

Requesting The United States Senators And Members Of Congress From Alabama To Initiate And Cooperate In Supporting Legislation To Restore Cotton To Its Former Economic Importance In World Commerce.

WHEREAS, by reason of legislation creating trade barriers to the cotton trade, discriminating freight rates, the tariff, and other legislation, and by reason of world economic conditions and competition from cotton growers in foreign countries with living standards below that of this country the cotton farmers in the Southern States have been reduced to a tragic financial condition, their export markets have been almost lost, they are subject to competition which they are handicapped in meeting, and the growing of cotton made economically impossible under the existing conditions; and

WHEREAS, unless concerted action is immediately taken by

the Senators and Members of Congress from the cotton states, looking to the relief of the cotton farmers from the handicaps under which such conditions have come about, the growing of cotton may soon become a thing of the past in this country, and the welfare and income of large sections of the United States seriously affected.

BE IT RESOLVED by the House of Representatives of the State of Alabama, the Senate concurring: That the attention of the Congress of the United States is respectfully directed to the fact that cotton is the leading product in America's Commerce and International Trade, and that the cotton farmer represents the world's largest primary wealth producing group and that it is of paramount importance to the producers of this commodity, as well as to the continued life of world trade on the part of the United States, that this interest be adequately rehabilitated and fostered. To that end, the Senators and Members of Congress from the State of Alabama are respectfully urged to take immediate steps to meet with the Senators and Representatives from all other cotton states for the purpose of securing concerted action by the Congress for the relief of the cotton farmers and of the industry from the handicaps and barriers under which they and it now suffer in the marketing of cotton, domestic and foreign, and it is respectfully suggested that among the things they are called to advocate the following: (1) Legislation for the removal of statutory trade barriers, as far as possible, against our cotton trade, such as the modification or repeal of the Johnson Act, the enactment of legislation bringing about the equalization of transportation rates, the revision of the tariff to relieve discrimination against the cotton farmers, and other legislation; (2) the sale to and use by the government for the manufacture of equipments and munitions of war of 6,000,000 bales of surplus cotton; (3) allocation to producers of cotton from the cotton being carried under government loans a sufficient number of bales to pay them the balance due on 3c per pound subsidy authorized by national legislation effective on 1937 cotton crop and on which only 1.80 per pound had been paid; (4) increase the subsidy payment to the cotton producers by the further distribution of government loan surplus cotton to sixty-five (65%) per cent of parity prices on cotton during the crop years 1937, 1938 and 1939; (5) allocation or reapportionment of 4,000,000 bales of cotton being carried by the Commodity Credit Corporation to the cotton growers in lieu of their making an additional reduction of one-third ($\frac{1}{3}$) or less in their cotton acreage allotment for 1939, each farmer so additionally reducing his allotted cotton acreage to be allotted the amount of cotton he would have produced on this acreage based upon his average yield as allowed by the government, and farmers so reducing to be paid the same soil build-

ing and other amounts they would have been paid had they planted the full cotton acreage allotted by the government for 1939; (6) selling to the Post Office Department 1,000,000 bales of cotton now being carried by the government under loans, this cotton to be used to be manufactured into twines and other materials for use of the United States mail service, the Post Office Department to place this cotton through bids to be manufactured for their use; (7) to allocate or reapportion from the cotton being carried by the government under the loans, 1,000,000 bales to be manufactured into cotton bagging to be distributed to cotton farmers as an additional subsidy without charge for baling their 1939 cotton and cotton of subsequent years; (8) the allocation of cotton, in point of time to comply with the time now required under the law for the sale thereof; (9) the retention of soil conservation payments as now made, pending the working out of a definite permanent plan for the future of cotton; (10) the pledging of the government to a definite support of cotton production profitable to the cotton growers; (11) the protection of cotton growers, through a subsidy payment increasing the selling price to 65 per cent of the parity price of cotton, so that they may successfully compete with foreign growers and regain lost export markets; (12) the granting to cotton growers of the privilege of planting other money crops than cotton on surplus lands resulting from reduction of cotton acreage, and not needed for production of feed and food crops for home consumption, **without imposing a penalty against compliance payments, as now done:** (13) the immediate payment to cotton farmers of all amount due for 1938 compliance, as was promised; (14) there is no one in the United States Department of Agriculture whose primary interest is the promotion of the welfare of the cotton farmer. To remedy this condition, create an officer of Cotton Commissioner in the United States Department of Agriculture. It should be the Commissioner's duty to develop new uses and markets for cotton and to represent producers of cotton in developing farm programs; (15) in addition to finances otherwise available that a sufficient fund be appropriated from the general funds of the treasury and made available to the Secretary of Agriculture to carry into effect this program here recommended and that funds for agriculture be raised in the same manner that funds are raised for other government expenditures; (16) the formation in each House of Congress of a bloc to advocate measures for the protection, encouragement and support of the cotton both now and in the future.

BE IT FURTHER RESOLVED, That the Legislative Bodies of the cotton states be urged to take immediate action to request from their Senators and Members of Congress similar cooperation and support of such actions and measures.

BE IT FURTHER RESOLVED, That the Clerk of the House do forthwith transmit copies of this Resolution to the United States Senators and Members of Congress from this State, and to the Legislative bodies of each of the following states, to-wit: North Carolina, Georgia, Florida, Louisiana, Mississippi, Arkansas, Oklahoma, Arizona, New Mexico, California, Missouri, Kansas, Texas, Tennessee and South Carolina.

Adopted by the House of Representatives February 17, 1939.

Concurred in by the Senate February 21, 1939.

No. 57)

(H. 183—Smyer

AN ACT

To amend Section 201, Article VI, of an Act entitled, "An Act to provide for the General Revenue of the State of Alabama," approved July 10, 1935.

Be it Enacted by the Legislature of Alabama:

Section 1. That said Section 201, Article VI, of an Act of the Legislature of Alabama entitled, "An Act to provide for the General Revenue of the State of Alabama," approved July 10, 1935, be and the same is hereby amended so as to read as follows: Section 201. Any municipal corporation in this State, may, by ordinance duly adopted, provide for the assessment, equalization and collection of taxes due such municipality, by the officers and boards provided in this Chapter, and all the machinery herein provided for the assessment, equalization and collection of State and county taxes, the enforcement of such collection, the sale of property for the collection of taxes and the redemption from such sales, shall be applicable to the assessment and collection of such municipal taxes, the sale of property for the collection of such municipal taxes and the redemption from such sales, and the assessor and collector shall receive such compensation as may be fixed by the governing body of such municipality, not to exceed one half of one per cent for assessing and one-half of one per cent for collection, and if any municipal corporation has heretofore availed itself of the provisions of this section or shall hereafter do so by the adoption of an ordinance as provided for herein, there shall also be applicable to the assessment and collection of its taxes, the sale of property for the collection thereof, and the redemption from such sales, all such other machinery, procedure and provisions of law as are now applicable with respect to the assessment, levy and collection of municipal taxes of cities having a population of not less than 6500 nor more than 15,000, according to the last or any subsequent Federal Census. And such machinery, procedure and provisions shall apply to all uncollected taxes whether heretofore or hereafter assessed,

provided the municipal corporation has heretofore adopted such ordinance.

Approved February 27, 1939.

No. 58)

(S. 44—McCall and Simpson

AN ACT

To create and establish a Merit System to administer, control and regulate employment in the Service of the State of Alabama; to regulate and control employees of the State of Alabama, in the classified and unclassified service and the Method of employing certain personnel by the State of Alabama, its departments and agencies; to create and establish the State Personnel Department and to require an appropriation therefor; to create the State Personnel Board, Director of Personnel or other agencies to supervise and administer the System; to define the duties, powers and authority of said Board, said Director or other agencies; to provide for rules for administering this Act; to define the Exempt Service, the Classified Service and the Unclassified Service; to require the certification of payrolls; to require the classifying of the positions in the State service and to provide a pay plan; to prescribe methods of recruitment for filling positions in the Classified Service; to provide for reductions in personnel and for the transfer, promotion, demotion, lay-off, dismissal or suspension of employees in the Classified Service; to provide for investigations, training programs and other procedures for improving the efficiency of the governmental departments and agencies; to prohibit corrupt practices; to prohibit political activity by employees in the Classified Service; to provide for the attendance of witnesses at hearings or investigations held by said Board or its agencies; to provide for the payment of the expenses of said Department; to provide penalties for the violation of this Act and of the rules adopted pursuant thereto; and to repeal all laws and parts of laws inconsistent with the provisions hereof.

Be it Enacted by the Legislature of Alabama:

Section 1. PURPOSE OF THIS ACT. The purpose of this Act is to assure to all citizens of demonstrated capacity, ability, and training an equal opportunity to compete for service with the State of Alabama; to establish conditions in the state service which will attract officers and employees of character and capacity; and to increase the efficiency of the governmental departments and agencies by the improvement of methods of personnel administration.

Section 2. SHORT TITLE. This Act shall be known and may be cited as the Merit System Act.

SECTION 3. DEFINITIONS. The following words, terms, and phrases, wherever used in this Act, shall have the meanings respectively ascribed to them in this section unless the context plainly indicates a contrary meaning: (1) Words used in the masculine gender include the feminine and neuter genders and words used in the neuter gender include the masculine and feminine genders. (2) "Appointing Authority" means the officer, board, Commission, person, or group of persons having the power to make ap-

pointments to offices or positions of trust or employment in the State Service. (3) "Board" mean State Personnel Board. (4) "Classified Service" means all offices or positions of trust or employment in the State Service now or hereafter created except those placed in the unclassified service by this Act. (5) "Director" means State Director of Personnel. (6) "Employment Register" means a record containing the names of those persons who have successfully competed in tests, have been ranked in order of their final earned average from highest to lowest, and are considered qualified to hold a position in the Class for which the test was held. (7) "Inmate Help" means persons committed to a State Institution who have been granted special privileges and employment due to good conduct. (8) "Position" means any office or place of employment in the State Service. (9) "Public Hearing" means a meeting of the Board open to the public held after five days public notice has been given thereof whereat any citizen, taxpayer, or interested party may appear and be heard subject to such rules and regulations as may be fixed by the Board. (10) "Public Record" means a record which the public shall have the right to inspect in a reasonable manner during ordinary business hours. (11) "State Service" means all offices and positions of trust or employment in the Service of the Alabama State government, irrespective of whether the remuneration or compensation of such offices and positions of trust or employment be paid out of the State Treasury or not, but "State Service" shall not include offices and positions of trust or employment of the local governmental subdivisions thereof, County or City Boards of Education, teachers and employees thereof, or those hereinafter exempted from this Act. (12) "Temporary Appointment" means an appointment for a period not to exceed 104 work days. (13) "Emergency Appointment" means an appointment to serve in any position under emergency conditions for not more than 10 work days. (14) "Exceptional Appointment" means appointment where extraordinary or unusual qualifications are required or where the peculiarities of the position are such as to make it inadvisable to attempt to fill it through open competitive examination. (15) "Provisional Appointment" is an appointment made for a period of not more than 156 work days to fill a competitive position pending the establishment of an employment register for the classification.

Section 4. STATE PERSONNEL DEPARTMENT CREATED. (a) There is hereby created and established a State Personnel Department with a State Personnel Board and a State Director of Personnel as hereinafter provided. The Director shall be the executive head of the Department. (b) Adequate annual appropriations shall be made to enable the Department to carry out effectively the provisions of this Act. There is hereby appropriated out of the General Fund of the State of Alabama not otherwise ap-

appropriated the sum of \$50,000 per annum, or so much thereof as may be necessary to defray the expenses of the State Personnel Department. (c) Offices shall be provided in the City of Montgomery which shall be the headquarters of the Department.

Section 5. ORGANIZATION OF THE STATE PERSONNEL BOARD. The State Personnel Board shall consist of three persons appointed by the Governor, with the consent of the Senate, to serve, one for two years, one for four years, and one for six years, or until their successors are appointed and have qualified. The successors of the original appointees shall be appointed for terms of six years each. Each member shall be required to take the constitutional oath of office before entering upon his duties. Within thirty days after the passage of this Act the Governor, with the consent of the Senate, shall appoint the members of the Board. The first Board shall meet, organize, and begin the discharge of its duties within thirty days after its appointment. The Board shall designate one of its members as Chairman. Two members of the Board shall constitute a quorum for the transaction of business. Any vacancy in the membership of the Board shall be filled by the Governor for the unexpired term. Each member shall be a person over twenty-one years of age, of recognized character and ability, shall have been a bona fide resident and a qualified voter of this State for not less than five years, and shall not, when appointed, nor for the three years then last past before the date of his appointment, have held elective public or party office, nor have been a candidate for such office. No two members of said Personnel Board shall be appointed from any one Congressional District of the State. A member of the Board may be removed from office for the same causes and by the same procedure as provided by the Constitution and statutes of Alabama for the impeachment of sheriffs. Each member of the Board shall receive a per diem of \$25.00 and expenses for attendance upon meetings of the Board, provided that for the first twelve months following the creation of the Board, no member shall receive a total salary in excess of \$1,200, and that thereafter no member shall receive a total salary in excess of \$600.00 per annum, excluding compensation received for attendance upon trials of charges preferred against employees as hereinafter provided.

Section 6. FUNCTIONS AND DUTIES OF THE BOARD. The Board shall hold regular meetings at least once each month, and may hold such additional meetings as may be required for the proper discharge of its duties. It shall be the duty of the Board as a body: (1) After public hearings to adopt and amend rules and regulations for the administration of this Act, as hereinafter provided. (2) After public hearings to adopt, modify or reject such classification and compensation plans for the state service, together with rules for their administration, as may be recommended by the Director after a thorough survey of the personnel and departmental

organizations included in such plan or plans. (3) To make investigations, either on petition of a citizen, taxpayer, or interested party, or of its own motion, concerning the enforcement and effect of this Act, and to require observance of its provisions and the rules and regulations made pursuant thereto. (4) To conduct hearings and to render decisions, as hereinafter provided, on charges preferred against persons in the classified service. (5) To make such investigations as may be requested by the Governor or the Legislature and to report thereon. (6) To consider and act on such matters as may be referred to the Board by the Director. (7) To represent the public interest in the improvement of personnel administration in the State Service. (8) To advise and assist the Director in fostering the interest of institutions of learning and of civic, professional, and employee organizations in the improvement of personnel standards in the State Service.

Section 7. **THE DIRECTOR: QUALIFICATIONS, COMPENSATIONS, AND REMOVAL.** The board shall appoint a director. He shall be a person over twenty-one years of age, of recognized character and ability; shall have been a bona fide resident and a qualified voter of this State for not less than five years next preceding his appointment. His salary shall be fixed by the board at a figure not to exceed \$5,000 per annum. He may be removed for cause by the board, provided that copies of a written statement of the reason for such removal be given the director and to the Governor, and that such written statement be made public prior to the effective date of his removal.

Section 8. **DUTIES OF THE DIRECTOR.** (a) The Director, as executive head of the Department, shall direct and supervise all its administrative and technical activities. It shall be his duty to: (1) Attend all meetings of the Board, act as its secretary, and record its official actions. (2) Appoint with the approval of the Board, such employees of the department and such experts and special assistants as may be necessary to carry out effectively the provisions of this Act. (3) Prepare and recommend rules and regulations for the administration of this Act. (4) Recommend, and on its adoption, establish, administer, and execute a classification plan for the state service. (5) Submit to the Governor, after its approval by the Board, a pay plan for all positions in the state service. (6) Conduct tests, formulate employment registers, and certify persons qualified for appointment; devise and administer employee service ratings; and develop employee welfare and training programs. (7) Recommend and, upon adoption by the Board, administer an in-service training program. (8) Approve all payrolls or other compensations for personal services within the state service before they may be lawfully authorized for payment. (9) Establish and maintain a roster of all the officers and employees in the state service. (10) Make such investigations pertaining to per-

sonnel, salary scales, and employment conditions in the state service as may be requested by the Board, the Governor, or the Legislature. (11) Make investigations concerning the administration and effect of this Act and the rules made thereunder and report his findings and recommendations to the Board. (12) Make an annual report to the Board. (13) Perform any other act or acts required under this Act or required by the Board which may be necessary to carry into effect its purposes and spirit. (14) That the Director shall have published annually in one issue of one daily newspaper in the State the names of all employees of all departments that come under this law giving the address of said employees given on his or her application. Said publication to be given on the first Monday of the year of 1941 and each year hereafter. (b) The Director shall appoint one employee of the Department to be his deputy. In case of the absence of the Director or his inability from any cause to discharge the powers and duties of his office, such powers and duties shall devolve upon his deputy, who shall be a citizen of Alabama. (c) The Director may select officers or employees in the state service to act as examiners in the preparation and rating of tests. An appointing authority may excuse any employee in his division from his regular duties for the time required for his work as an examiner. Officers and employees shall not be entitled to extra pay for their service as examiners but shall be entitled to reimbursement for necessary traveling and other expenses. (d) The Director may join or subscribe to any association or service having as its purpose the interchange of information relating to the improvement of personnel administration.

Section 9. RULES. (a) The Director shall recommend such rules as he may consider necessary, appropriate, or desirable to carry out the provisions of this Act, and may from time to time recommend amendments thereto. When such rules or amendments are recommended by the Director, the Board shall hold a public hearing thereon, and shall have power to approve or reject the recommendations of the Director wholly or in part or to modify them and approve them as so modified. Rules or amendments thereto which are approved by the Board, or on which the Board takes no action within thirty days after they are recommended by the Director, shall be submitted to the Governor by the Director, who shall have power to approve or reject them. Such rules or amendments thereto shall become effective when approved by the Governor, or on the tenth day after they are submitted to him if prior thereto he shall not have rejected them. The first rules hereunder shall be recommended by the Director within six months after his appointment. (b) Rules adopted under this section, not in conflict with the laws of Alabama, shall have the force and effect of law. Among other things, such rules shall provide for the method of administering the classification plan and the pay plan; the es-

tablishment, maintenance, consolidation, and cancellation of lists; the application of service ratings; the hours of work, attendance regulation, and leaves of absence for employees in the State Service; and the order and manner in which lay-offs shall be effected. Such rules may include any provisions relating to state employment, not inconsistent with the laws of the State, which may be necessary or appropriate to give effect to the provisions and purposes of this Act. (c) The powers herein conferred upon the Director shall be subject only to the provisions of this Act and of the rules adopted hereunder, and may be exercised by regulation or by order as the Director sees fit.

Section 10. EXEMPT, CLASSIFIED AND UNCLASSIFIED SERVICE. Positions in the service of the State shall be divided into the exempt, the unclassified and the classified service. (a) The exempt service shall include: (1) Officers elected by vote of the people. (2) Officers and employees of the Legislature. (3) Officers, attendants and employees of the Circuit Courts, Clerks of County Jury Boards, and deputy Circuit Solicitors. (4) Members of Boards and Commissions, whether appointed or self-perpetuating, and heads of departments required by law to be appointed by the Governor. (5) All officers and employees of the State's institutions of higher learning, teacher training institutions and normal schools; all officers and employees of all educational eleemosynary and correctional institutions which are governed and controlled by Boards of Trustees or similar governing bodies, the secondary agricultural schools and vocational schools. (6) All inmate help in all charitable, penal and correctional institutions. (7) All commissioned and warrant officers and enlisted men of the National Guard and Naval Militia of the State, in their respective Military and naval grades. (8) The Governor's private secretary, legal advisor, recording secretary, and those employees of the Governor's office paid exclusively out of the Governor's emergency and/or contingent funds. (9) The employees of the State Docks Commission engaged in railroad service and subject to the provisions of an Act of Congress known as the Railway Labor Act, as amended or as it may hereafter be amended. The services here listed as exempt, shall in no respect be subject to the provisions of this Act, anything to the contrary notwithstanding. (b) The Unclassified Service shall include: (1) One confidential assistant or secretary for each Board, Commission and elected officer. (2) All employees of the Governor's office not exempted. Provided, that these positions in the Unclassified Service previously enumerated may at the request of the appointing authority, be filled by Classified employees. Each of the employees thus appointed shall, at the conclusion of his occupancy of such position, resume his previous status in the Classified Service. (c) The Classified Service shall include all other officers and positions in the State Service. Except as to services denominated

as exempt or unclassified services hereinabove, the Governor shall have the power by executive order to extend the provisions of this Act, to include additional positions or classes of positions. Employees in the unclassified service shall be subject to the same rules and regulations of employment as apply to employees in the Classified service except as to appointment and dismissal.

Section 11. CERTIFICATION OF PAYROLLS. (a) It shall be unlawful for the State Comptroller, any county official, officer or employee, or any other fiscal officer to draw or issue any warrant on the state treasury, County treasurer, or County depository, for the payment of any salary or compensation to any person in the state service for personal services, unless the payroll, estimate, voucher, or account for such salary or compensation containing the name of the person to be paid shall bear the certification of the Director that the person or persons named therein are employees of the State and are legally entitled to receive the sums stated therein. (b) Any sum paid contrary to any provision of this Act or of any rule, regulation, or order thereunder may be recovered, in an action maintained in the name of the State by the Attorney General or by any citizen or taxpayer of Alabama, from any officer who made, approved, or authorized such payment or who signed or counter-signed a voucher, payroll, check, or warrant for such payment, or from the sureties on the official bond of any such officer. All moneys recovered in any such action shall be paid into the State Treasury. The Attorney General or any citizen or taxpayer of Alabama may likewise maintain a suit to restrain a disbursing officer from making any payment in contravention of any provision of this Act, or of any rule, regulation or order thereunder. (c) Any person appointed or employed in contravention of any provision of this Act or of any rule, regulation or order thereunder who performs service for which he is not paid, may maintain an action against the officer or officers who purported so to appoint or employ him to recover the agreed pay for such services, or the reasonable value thereof if no pay was agreed upon. No officer shall be reimbursed by the State at any time for any sum paid to such person on account of such services. (d) If the Director wrongfully withholds certification of the payroll voucher or account of any employee, such employee may maintain a proceeding to compel the Director to certify such payroll voucher or account. (e) A thirty-day month shall be used for the purpose of calculating the pay of employees compensated on a monthly basis.

Section 12. CLASSIFICATION OF POSITIONS. The Director shall, as soon as practicable after this Act takes effect, ascertain and record the duties of each position in the state service and after consultation with appointing authorities and principal supervising officials, recommend to the Board a classification plan, together with proposed rules for its administration. Such classifica-

tion plan shall show each class of position in the state service and when approved by the Board shall be made public, together with the rules for its administration. Each such class shall include positions requiring duties which are substantially similar in respect to the authority, responsibility, and character of the work required in the performance thereof and shall be designated by a title indicative of such duties. Each class shall be so defined that the same requirements as to education, experience, capacity, knowledge, and skill are demanded of incumbents for the proper performance of their duties; that the same tests of fitness may be used in choosing qualified appointees; and that the same schedule of pay can be made to apply with equity under like working conditions. The class titles shall be used in personnel, budget and financial records and communications. As far as practicable the natural or probable lines of promotion to and from the class of position shall be designated or indicated.

Section 13. **PAY PLAN.** After consultation with appointing authorities and the State fiscal officers, the Director shall prepare and recommend to the Board a pay plan for all employees in the state service. Such pay plan shall include, for each class of positions a minimum and a maximum rate, and such intermediate rates as the Director considers necessary or equitable. In establishing such rates the Director shall give consideration to the experience in recruiting for positions in the state service, the prevailing rates of pay for the services performed, and for comparable services in public and private employment, living costs, maintenance or other benefits received by employees, and the State's financial condition and policies. Such pay plan after adoption by the Board, shall be submitted to the Governor, who shall have the power to revise or alter the plan. Such pay plan shall take effect when approved by the Governor. Amendments thereto may from time to time, be made in the same manner. Each employee in the state service shall be paid at one of the rates set forth in the pay plan for the class of positions in which he is employed.

Section 14. **TESTS.** (a) The Director shall conduct tests to establish Employment registers for the various classes of positions in the classified service. The tests shall take into consideration elements of character, reputation, education, aptitude, experience, knowledge, skill, personality, physical fitness, and other pertinent matters and may be written or oral or any other demonstration of fitness as the Director may determine. Public notice of the time, place, and general scope of every test shall be given. (b) The Director, with the approval of the Board, shall determine the qualifications for admission to any test. For a promotion test, the qualifications shall include the requirement that an applicant be employed in a position in such class, and for such length of time, as the Director shall specify, subject to the rules. Every applicant upon

examination shall declare whether he or she is a citizen of the United States of America, and the Director shall not qualify any person for a job who is not a citizen of the United States of America. Admission to tests shall be open to all persons who appear to possess the required qualifications and may be lawfully appointed to a position in the class for which a list is to be established, and no fee shall be charged therefor. The Director may, however, reject the Application of any person for admission to a test or may strike the name of any person from a list or refuse to certify the name of any person on a list for a position if he finds that such person lacks any of the required qualifications, or is physically unfit to perform effectively the duties of the position in which he seeks employment, or is addicted to the habitual excessive use of drugs or intoxicating liquor, or has been convicted of a crime involving moral turpitude, or guilty of any notoriously disgraceful conduct, or has been dismissed from the public service for delinquency, or has made a false statement of a material fact or practiced or attempted to practice any fraud or deception in his application or test or in attempting to secure appointment. (c) All persons who have been honorably discharged from the Army, Navy, or Marine Corps, who served in armed forces of United States during the period of a war, shall have five points added to their earned ratings in examination for entrance to the classified service; Provided, however, that such person be a qualified voter in Alabama or has been a resident of this State for two years next preceding his or her application; All persons who served in armed forces of the United States during the period of a war who have been honorably discharged and who establish by official records of the United States the present existence of a service connected disability, and because of disability are entitled to pension compensation; or disability allowance under existing laws; and widows of such honorably discharged soldiers, sailors, and marines; and wives of such honorably discharged soldiers, sailors, and marines, who because of service connected disability are not themselves qualified but whose wives are qualified, shall have ten points added to their earned ratings. In entering upon registers the names of preference claimants entitled to five points additional, they will take the place to which their ratings entitle them on the register with non-veterans—that is, the earned ratings augmented by the five points to which they are entitled, and will be certified when their ratings are reached. The name of a veteran with the augmented rating is entered ahead of the name of a non-veteran when their ratings are the same. The names of persons entitled to ten-point preference, however, will be placed ahead of all others on the register with the same rating (that is, ahead of veterans entitled to five points preference and non-veterans); And shall be then certified in the order of their augmented ratings. An appointing officer who passes over a vet-

eran eligible and selects a non-veteran with the same or lower rating shall file with the Director the reasons for so doing, which reasons will become a part of the Veteran's record but will not be made available to anyone other than the veteran himself except, in the discretion of the appointing officer. When reductions are being made in any part of the classified service persons entitled to military preference in appointment shall be the last to be discharged or dropped or reduced in rank or salary if his record is good; or if his efficiency rating is equal to that of any employee in competition with him who is retained in the service in his department. (d) The Board shall in establishing and administering standards of personnel qualifications, pay plans and tests both for personnel now in place as well as that later employed, cooperate with and avail itself fully of the advice and assistance of the appointing authorities involved and of the Federal Government in those departments administered in whole or in part with Federal funds.

Section 15. PROCEDURES FOR FILLING UNSKILLED AND CUSTODIAL POSITIONS. For positions involving unskilled or semi-skilled labor, or domestic attendant, or custodial work, when the character or place of the work makes it impracticable to supply the needs of the service by appointments made in accordance with the procedure prescribed by this Act, the Director subject to the rules, may adopt or authorize the use of such other procedures as he determines to be appropriate in order to meet the needs of the service, while assuring the selection of such employees on the basis of merit and fitness. Such procedures may, so far as practicable include the testing of applicants and maintenance of lists of eligibles by localities; the testing of applicants, singly or in groups, at periodic intervals, at the place of employment or elsewhere, after such notice as the Director considers adequate; the registration of applicants who pass a non-competitive test or submit satisfactory evidence of their qualifications, and appointment of registered applicants in the order of their application or by lot; or any variation or combination of the foregoing, or other suitable method.

Section 16. APPOINTMENTS. Vacancies in the classified service shall be filled either by transfer, promotion, appointment, re-appointment, or demotion. Whenever a vacancy is to be filled by appointment, the appointing authority shall submit to the Director a statement of the title of the position, and if requested by the Director to do so, the duties of the position and desirable qualifications of the person to be appointed, and a request that the Director certify to him the names of persons eligible for appointment to the position. The Director shall thereupon certify to the appointing authority the name of the three ranking eligibles from the most appropriate register, and if more than one vacancy is to be filled the name of one additional eligible for each addition-

al vacancy, or all the names on the register if there are fewer than three. If it should prove impossible to locate any of the persons so certified or should it become known to the Director that any person is not willing to accept the position, the appointing authority may request that additional names be certified until three persons eligible and available for appointment have been certified. Within ten days after such names are certified the appointing authority shall appoint one of those whose names are certified to each vacancy which he is to fill, except that in the event that he has fewer than the authorized number of persons from which to make his selection, he may choose from the remaining certified names or may elect to make a provisional appointment as provided by Section 17 of this Act. In the event that there does not exist an employment register which the Director deems to be appropriate for the Class in which the position is established, he shall prepare such a register within a reasonable time after receipt of the request of the appointing authority that eligibles be certified. Whenever an eligible has been certified to and rejected by appointing authorities three times, the Director may remove the name of such person from the employment register.

Section 17. **EXTRAORDINARY APPOINTMENTS.** Extraordinary appointments include temporary appointments, emergency appointments, exceptional appointments, and provisional appointments. (a) **Temporary Appointments.** Whenever the services to be rendered by an appointee are for a temporary period not to exceed 104 work days, and the need for such service is important and urgent, the Director may select for such temporary service any person on the proper eligible register without regard to his standing on such register. Successive temporary appointments to the same position or of the same candidate shall not be made under this provision. The acceptance or refusal by an eligible of such temporary appointment shall not affect his standing on the register for regular employment, nor shall a period of temporary service be counted as a part of the probationary service in case of subsequent appointment to a regular position. (b) **Emergency Appointments.** Whenever there is an emergency condition existing in the service, appointment may be made of a non-eligible person to perform work in such position and under such conditions, but in no case shall such appointment be continued for more than 10 days and in no case shall successive emergency appointments be made. (c) **Exceptional Appointments.** Whenever there is a vacancy in a position in the classified service where peculiar and exceptional qualifications of a scientific, professional, or educational character are required, and upon satisfactory evidence that for specified reasons competition in such special case is impracticable and that the position can best be filled by the selection of some designated person of high and recognized attainments in such qualities, the Personnel

Board upon recommendation of the Personnel Director may suspend the examination requirements in such case, but no suspension shall be general in its application to such place or position, and all such cases of suspension shall be reported in the annual report of the department with the reasons for such action in each case. (d) Provisional Appointments. Whenever it is impossible to certify eligible persons for appointment to a vacancy in the classified service, the appointing authority may nominate a person to the director. If such nominee is found by the Director to have had experience and training which appear to qualify him for the position, the Director may authorize the appointment of such person to such vacancy only until an appropriate eligible register can be established and appointment made therefrom. In no event shall a provisional appointment be continued for more than 156 work days. Successive provisional appointments of the same person shall not be made.

Section 18. WORKING TEST PERIOD. (a) Every person appointed to a position in the classified service after certification of his name from a promotion list or an employment list shall be tested by a working test while occupying such position. The period of such working test shall commence immediately upon appointment and shall continue for such time, not less than six months, as shall be established by the Director. At such times during the working test period and in such manner as the Director may require, the appointing authority shall report to the Director his observation of the employee's work, and his judgment of the employee's willingness and ability to perform his duties satisfactorily, and as to his habits and dependability. At any time during his working test period, the appointing authority may remove an employee if, in the opinion of the appointing authority, the working test indicates that such employee is unable or unwilling to perform his duties satisfactorily or that his habits and dependability do not merit his continuance in the service. Upon such removal, the appointing authority, shall forthwith report to the Director and to the employee removed his action and the reason thereof. No more than three employees shall be removed successively from the same position during their working test periods without the approval of the Director. The Director may remove an employee during his working test period if he finds, after giving him notice and an opportunity to be heard, that such employee was appointed as a result of fraud or error. (b) Ten days prior to the expiration of an employee's working test period, the appointing authority shall notify the Director in writing whether the services of the employee have been satisfactory and whether he will continue the employee in his position. A copy of such notice shall be given to the employee. No employee shall be paid for work performed after the expiration of his working test period unless, prior to the performance of such work, the appointing authority has notified the Direc-

tor that the employee will be continued in his position. (c) If any employee is removed from his position during or at the end of his working test period, and the Director determines that he is suitable for appointment to another position, his name may be restored to the list from which it was certified. If any such employee was a regular employee in another position in the classified service immediately prior to his appointment, his name shall be placed on the reemployment list for the class of the position in which he was a regular employee.

Section 19. SERVICE RATINGS. In cooperation with appointing authorities, the Director shall establish, and may from time to time amend, standards of performance and output for employees in each class of positions in the classified service or for groups of classes, and a system of service ratings based upon such standards. In such manner and with such weight as shall be provided in the rules, service ratings shall be considered in determining salary increases and decreases within the limits established by law and by the pay plan; as a factor in promotion tests; as a factor in determining the order of lay-off when forces must be reduced because of lack of funds or work, and the order in which names are to be placed on reemployment lists; and as a means of discovering employees who should be promoted, demoted, transferred, or dismissed. In such manner and at such time as the rules may require, each appointing authority shall report to the Director the service ratings of employees in his division or such information as the Director may request as a basis for determining such service ratings. Any employee shall be given reasonable opportunity to inspect the records of the Department which show his service ratings and the service ratings of other employees in the same class and division.

Section 20. PROMOTIONS. Within the discretion of the Director, vacancies in positions shall be filled, insofar as practicable, by promotion from among regular employees holding positions in the classified service. Promotion shall be based upon merit and competition.

Section 21. TRANSFERS. An appointing authority may, at any time, assign a classified employee under his jurisdiction from one position to another in the same class. Any classified employee may be transferred from one department to another in the same class, provided that the Director has authorized the transfer and has received approval of both appointing authorities concerned. In every case involving transfer, the appointing authority shall submit written request to the Director.

Section 22. DEMOTIONS. An appointing authority may, upon giving written notice, stating reasons, to and with the approval of the Director, demote a classified employee under his

jurisdiction from a position in one class to a position in a lower class.

Section 23. LAY-OFFS. In accordance with the rules, an appointing authority may lay off an employee in the classified service whenever he deems it necessary by reason of shortage of work or funds, or the abolition of a position or other material change in duties or organization. The seniority and service ratings of employees shall be considered, in such manner as the rules shall provide, among the factors in determining the order of lay-offs. The appointing authority shall give written notice to the Director of every proposed lay-off a reasonable time before the effective date thereof, and the Director shall make such orders relating thereto as he considers necessary to secure compliance with the rules. The name of every regular employee so laid off shall be placed on the appropriate reemployment list.

Section 24. DISMISSALS. (a) An appointing authority may dismiss a classified employee whenever he considers the good of the service will be served thereby, for reasons stated in writing, served on the affected employee, and a copy furnished to the Director, which action shall become a public record. The dismissed employee may, within ten days after notice, appeal from the action of the appointing authority by filing with the Board and the appointing authority a written answer to the charges. The Board shall if demand is made in writing by the dismissed employee within ten days after notice of discharge, order a public hearing and if the charges are proved unwarranted, order the reinstatement of the employee under such conditions as the Board may determine. (b) In addition to removal by an appointing authority, persons in the classified service may be removed or disciplined in the following manner. Charges may be filed by any officer, citizen, or taxpayer of the State with the Director, who shall within five days cause a copy to be served upon the person complained against and shall set a day not less than ten nor more than twenty days after such charges have been served on such employee for a public hearing of such charges. This hearing may be before the Director, a special agent appointed for the purpose by the Director, or the Board itself. If before the Director or a special agent, the Director or special agent shall take testimony offered in support and denial of such charges and from the same submit to the Board, within five days, a finding of facts and law involved and a recommended decision. The Board at its next regular or special meeting shall consider said report and modify, alter, set aside or affirm said report and certify its findings to the appointing authority who shall forthwith put the same into effect. If the Board hears said charges directly or requires the transcribing and submission of the testimony taken before the Director or special agent, it shall make up and file its own findings and decision. The decision of the Board

based upon its records and the testimony shall be final. In proceedings under this section it shall be no defense or excuse for a forbidden act or for an omission to observe the laws or rules, that such act or omission was directed by a superior, unless a written direction or order from such superior to that effect is proved. (c) If any employee in the state service shall wilfully refuse or fail to appear before any court or judge, any legislative committee, or any officer, board or body, authorized to conduct any hearing or inquiry, or having appeared shall refuse to testify or answer any question relating to the affairs or government of the State or the conduct of any State officer or employee on the ground that his testimony or answers would tend to incriminate him, or shall refuse to waive immunity from prosecution on account of any matter about which he may be asked to testify at any such hearing or inquiry, such conduct shall be cause for removal.

Section 25. **SUSPENSIONS.** An appointing authority may, from time to time, peremptorily suspend any employee without pay or other compensation, and without the right of a hearing, as punishment for improper behavior, but such suspension or total suspension by such appointing authority of such person shall not exceed thirty days in any year of service. Such suspension with loss of pay may be effected only by service upon the employee by the appointing authority of written charges setting out clearly the delinquency for which such suspension was made, a copy of which must at the same time be mailed or delivered to the Director. The suspended employee shall have the right to file with the Board and the appointing authority a written answer or explanation of such charges.

Section 26. **POLITICAL ACTIVITIES PROHIBITED.** (a) No person shall be appointed or promoted to, or demoted or dismissed from, any position in the classified service, or in any way favored or discriminated against with respect to employment in the classified service because of his political or religious opinions or affiliations. (b) No person shall seek or attempt to use any political endorsement in connection with any appointment to a position in the classified service. (c) No person shall use or promise to use, directly or indirectly, any official authority or influence, whether possessed or anticipated, to secure or attempt to secure for any person an appointment or advantage in appointment to a position in the classified service, or an increase in pay or other advantage in employment in any such position, for the purpose of influencing the vote or political action of any person, or for any consideration. (d) No employee in the classified service, and no member of the Board shall, directly or indirectly, pay or promise to pay any assessment, subscription, or contribution for any political organization or purpose, or solicit or take any part in soliciting any such assessment, subscription, or contribution. No person

shall solicit any such assessment, subscription, or contribution of an employee in the classified service. (e) No employee in the classified service shall be a member of any national, state, or local committee of a political party, or an officer of a partisan political club, or a candidate for nomination or election to any public office, or shall take any part in the management or affairs of any political party or in any political campaign, except to exercise his right as a citizen privately to express his opinion and to cast his vote. Provided, however, nothing herein shall prohibit any person in the classified Service from serving out the terms of a party office for which he had been elected at the time this Act goes into effect. (f) Any officer or employee in the classified service who violates any of the foregoing provisions of this section shall forfeit his office or position.

Section 27. STATUS OF PRESENT EMPLOYEES. Persons holding positions which come under the classified service as described herein at the time examinations are given may hold these positions until appointments can be made from employment registers. Such position holders passing such examinations, shall be given a regular status. Persons holding positions and not passing such examinations shall be replaced as soon as possible by certification of persons from the employment registers. The Director shall establish registers within a reasonable time after the effective date of this Act.

Section 28. PENSION OR RETIREMENT PLAN. The Director shall cause a thorough investigation to be made of the possibilities of establishing a pension plan or system of retirement benefits for employees of the state service and shall report his findings and recommendations together with estimates of cost to employees and to the state, to the Board which shall submit its recommendations to the Legislature.

Section 29. TRAINING PROGRAMS. The Director shall devise plans for and cooperate with appointing authorities and other supervising officials in the conduct of employee training programs to the end that the quality of service rendered by persons in the classified service may be continually improved.

Section 30. INVESTIGATION. The Director shall make studies and report to the Board upon all matters touching the enforcement and the effect of the provisions of this Act and the rules and regulations prescribed thereunder. He may visit all places of employment and services affected by this act in order to ascertain and advise with the heads of the various departments concerning their methods of handling those matters affecting employees in the service, such as hours of work, attendance, training, working conditions, and morale, and in order to ascertain whether the provisions of this act and the rules promulgated thereunder are obeyed. The Director in the course of such inquiries shall have the power to

administer oaths, subpoenas and require the attendance of witnesses and the production of books, papers, documents, and accounts pertaining to the subject under investigation. All hearings and inquiries made by the Director shall be governed by this Act and by rules of practice and procedure adopted by the Board, and in conducting such inquiries he shall not be bound by the technical rules of evidence. No informality in any proceeding or in the manner of taking testimony by the Director shall invalidate any order, decision, rule, or regulation made by him and approved or confirmed by the Board. The Director shall have authority to inquire concerning the number of employees in any department or office, and if in his judgment there is an excessive number of employees in proportion to the amount of work required in such department or office, he shall, with the approval of the Board recommend in writing to the appointing authority that the excess number of employees be laid off or transferred. He shall also study the organization and procedure of the different departments and suggest such changes in procedure as may increase efficiency or enable the organization to carry on its work more economically and with a reduced staff.

Section 31. **CORRUPT PRACTICES.** (a) No person shall make any false statement, certificate, mark, rating or report with regard to any test, certification, or appointment made under any provision of this Act, or in any manner commit or attempt to commit any fraud preventing the impartial execution of this Act and the rules. (b) No person shall, directly or indirectly, give, render, pay, offer, solicit, or accept any money, service or other valuable consideration for or on account of any appointment, proposed appointment, promotion, or proposed promotion to, or any advantage in, a position in the classified service. (c) No employee of the Department, examiner, or other person shall defeat, deceive or obstruct any person in his right to examination, eligibility, certification, or appointment under this Act, or furnish to any person any special or secret information for the purpose of affecting the rights or prospects of any person with respect to employment in the classified service.

Section 32. **PENALTIES.** (a) Violation of any provision of this act shall be deemed a misdemeanor and the violator shall be punished as provided by Section 5277 of the Code of Alabama of 1923. (b) Any person who is convicted of a misdemeanor under this Act shall, for a period of five years, be ineligible for appointment to or employment in a position in the state service, and if he is an officer or employee of the state, shall forfeit his office or position.

Section 33. **ATTENDANCE OF WITNESSES; FEES; FALSE OATHS.** Any person who shall without good cause be served with a subpoena, issued in the course of an investigation

or hearing conducted under any provision of this Act, to appear and testify or to produce books and papers, who shall without good cause disobey or neglect to obey any such subpoena shall be guilty of a misdemeanor. The fees of witnesses for attendance and travel shall be the same as fees of witnesses before the courts of record and shall be paid from the appropriation for the expenses of the board. Any judge of a Court of record, either in term time or vacation, upon application of a member of the Board or the Director, shall compel the attendance of witnesses, the production of books and papers, and the giving of testimony before the Board or an agent thereof by attachment, or contempt, or otherwise, in the same manner as the production of evidence shall be compelled before said court. Any person who, having taken an oath or made affirmation in the course of any investigation or hearing under the provisions of this Act, shall wilfully and knowingly testify or declare falsely, shall be guilty of perjury and upon conviction shall be punished accordingly. The Director or the Board shall require the attendance of employees who are needed as witnesses without subpoena.

Section 34. **EXPENSES OF DEPARTMENT.** The salaries and all other expenses of the Department arising under the provisions hereof shall be paid from the appropriations provided. Vouchers shall be signed by the Director or in the absence of the Director by his deputy and submitted to the State Comptroller who shall draw his warrant in payment thereof.

Section 35. **LEGAL SERVICES.** If this act or its enforcement by the Director or the Board shall be called into question in any judicial proceeding, or if any person shall fail or refuse to comply with the lawful orders or directions of the Board, such Board or the Director may call upon the Attorney General or may, with the advice and consent of the Governor, employ independent counsel to represent it in sustaining this act and its enforcement thereof and such independent counsel shall be paid as other employees of the Department are paid.

Section 36. **USE OF PUBLIC BUILDINGS.** It shall be the duty of all officers of the state and of the several counties and cities of the state to allow the reasonable use of public buildings and rooms and to heat and light the same for the holding of any examinations or investigations provided for by this Act, and in all proper ways to facilitate the work of the Department.

Section 37. **RECORDS OF THE DEPARTMENT.** The records of the Department, except such records as the rules may require to be held confidential by reasons of public policy, shall be public records and shall be open to public inspection, subject to regulations as to the time and manner of inspection which may be prescribed by the Director.

Section 38. SEVERABILITY. The sections of this Act and the parts of each section are hereby declared to be independent sections and parts of sections, and the holding of any section or part thereof to be void, ineffective, or unconstitutional for any cause, shall not affect the other sections or parts thereof, and it is now declared that the other parts or sections would have been enacted regardless of any section or parts of sections which might be held unconstitutional, inoperative, or ineffective.

Section 39. REPEALING CLAUSE. All laws or parts of laws inconsistent or in conflict with this Act are hereby expressly repealed, subject to the provisions of Section 40 hereof. Specifically and again without limiting the generality of the above, all laws or parts of laws the effect of which is to prescribe a different method of selection or appointment or to fix tenure of office or employment and the rate of compensation for services contrary to the express or implied effect and provisions hereof are repealed, it being the legislative intent that the terms of this act shall be fully effective, any law or parts of laws heretofore enacted to the contrary notwithstanding.

Section 40. EFFECTIVE DATES. This act shall become effective immediately upon its enactment, provided, however, that a period of twelve months shall be allowed in which to organize and prepare for the administration of the Merit System herein provided, and that during such period of twelve months the employees and appointees of the State shall continue in all respects under and subject to the laws to which they are now subject.

Approved March 2, 1939.

No. 59)

(S. 55—Harris

AN ACT

To establish a Jury Commission in each of the several counties of this State, to fix the membership of said Commissions to prescribe the qualifications and terms of office and provide for the appointment of the members thereof; to fix their compensation and to define their duties; to provide for the appointment, duties and compensation of clerks of said Commissions, for the qualifications of jurors, for the preparation of jury rolls and the emptying, filling and refilling of jury boxes; and to provide for the payment of the necessary expenses of the Commissions, and to repeal certain laws.

Be it Enacted by the Legislature of Alabama:

Section 1. That a Jury Commission be and the same is hereby established in every county in this State.

Section 2. That each of said Jury Commissions shall be composed of three members who shall be qualified electors of the County in which they are appointed and shall be men reputed for their fairness, impartiality, integrity and good judgment. Members of the

Commission shall not during the term for which they are appointed and during their tenure in said office hold any other office by appointment or election or perform any other public duty under the Federal, State, County or Municipal government, which carries with it any compensation whatsoever.

Section 3. That within ninety days after the passage and approval of this Act, the Governor shall appoint the members of the several Jury Commissions who shall constitute said several commissions during the Governor's tenure of office and until their successors are appointed and qualified, and thereafter the Governor shall appoint the members of said Jury Commissions for and only during the tenure of office of the Governor making the appointment and until their successors are appointed and qualified.

Section 4. The members of the Jury Commission shall elect one of their number President of the Commission. Any two members of the Commission shall be a quorum for the transaction of business. Every member of the Commission before entering upon the discharge of his duties must take the oath of office prescribed by section 279 of the Constitution and must be commissioned by the Governor.

Section 5. Each member of the Jury Commission shall be paid the sum of Five Dollars (\$5.00) per day for the time actually engaged in the discharge of his duties as such member, to be paid out of the County treasury upon the warrant of the probate judge of the county. Such warrants are to be issued by such probate judge upon evidence satisfactory to him that such service has been rendered; but the compensation of each member of the Commission shall not exceed for any year of his term the following amounts, viz: In counties of twenty-five thousand population or less One Hundred Dollars (\$100.00); in counties exceeding twenty-five thousand and not exceeding fifty thousand population Two Hundred Dollars (\$200.00); in counties exceeding fifty thousand and not exceeding seventy-five thousand population Three Hundred Dollars (\$300.00); and in counties exceeding seventy-five thousand population Six Hundred Dollars (\$600.00); the population of said respective counties to be determined by the last preceding Federal census.

Section 6. In the event that two of the Jury Commission are absent from the State, sick, or for any reason cannot discharge the duties imposed upon them by this article, then the other member of the Commission shall notify any judge of a Court of record residing in the County to appear and take the place of the absent members, and in such case one judge and one member shall constitute a quorum. If no such judge is present or able to serve, the other member must immediately notify the Governor, who shall appoint competent persons to act as members of the Commission until the regular members are present and able to discharge their duties.

Section 7. Should any member of the Commission become disqualified under the provisions of this Act, the fact of such disquali-

fication and the ground or reason thereof shall be certified to the Governor by the judge of the Circuit Court of the county, or in counties in which there is no Circuit Court by the judge of a court having the jurisdiction of a Circuit Court, and when so certified his office shall become vacant, and the Governor shall appoint his successor to fill out the unexpired term. In case of any vacancy from any other cause in the office of a member of the Commission the Governor shall appoint a member to fill such vacancy who shall hold office for the unexpired term.

Section 8. In Counties having seventy-five thousand population or less by the last Federal census preceding the employment, the clerk of the Circuit Court may be employed as the Clerk of the Jury Commission and in such counties the Clerk of the Jury Commission whether he be the clerk of the Court or not, shall be paid for his services rendered under the direction of the Jury Commission the sum of Five Dollars (\$5.00) per day while actually engaged in performing his duties, to be paid out of the county treasury upon the order of the President of the Jury Commission. In counties having more than seventy-five thousand and less than two hundred thousand population according to the last or any subsequent Federal Census, the Commission shall employ a clerk who shall hold no other office during the term of his employment and who shall be paid for his services rendered under the direction of the Jury Commission, the sum of Five Dollars (\$5.00) per day while actually engaged in performing his duties, to be paid out of the county treasury upon the order of the President of the Jury Commission. In counties having more than two hundred thousand population according to the last or any subsequent Federal census, the Jury Commission in any such county shall have authority to employ such clerical assistance as such Commission deems necessary and proper, and may expend for such clerical assistance in compensation and in paying their reasonable and necessary expense in performing the duties of their employment a sum not to exceed Four Hundred and Fifty Dollars (\$450.00) per month to be paid out of the county treasury upon the order of the President of the Jury Commission. In counties having a population of 75,000, or less, according to the last preceding Federal census, the clerk of the Jury Commission shall not receive more than \$300.00 as compensation for his service in any one year.

Section 9. Every clerk of a Jury Commission before entering upon the discharge of his duties under this Act, must take and subscribe the oath of office prescribed by Section 279 of the Constitution and file the same for record in the probate office of the county.

Section 10. Any member of a Jury Commission or clerk thereof who neglects to perform any duty imposed upon him by this Act, or any person who being duly summoned to attend before the Jury Commission wilfully fails to do so, or attending refuses to testify, is guilty of a misdemeanor.

Section 11. The clerk of the Jury Commission shall, under the direction of the Jury Commission obtain the name of every male citizen of the county over twenty-one and under sixty-five years of age and their occupation, place of residence and place of business, and shall perform all such other duties required of him by law under the direction of the Jury Commission.

Section 12. The clerk of the Jury Commission must give such time to the performance of his duties as may be required by the Jury Commission but shall not be paid for Sundays. The Jury Commission may at any time discharge any clerk employed by it and employ another.

Section 13. The Jury Commission shall meet in the Court house at the county seat of the several counties as soon after the approval of this Act as is practicable and thereafter on the first Monday in October in each year, and shall make in a well bound book a roll containing the name of every male citizen living in the county who possessed the qualifications herein prescribed and who is not exempted by law from serving on juries. The roll shall be arranged alphabetically and by precincts in their numerical order and the Jury Commission shall cause to be written on the roll opposite every name place thereon the occupation, residence and place of business of every person selected, and if the residence has a street number it must be given. Upon the completion of the roll the Jury Commission shall cause to be prepared plain white cards all of the same size and texture and shall have written or printed on the cards the name, occupation, place of residence and place of business of the person whose name has been placed on the jury roll; writing or printing but one person's name, occupation, place of residence and of business on one cards. These cards shall be placed in a substantial metal box provided with a lock and two keys which box shall be kept in a safe or vault in the office of the probate judge and if there be none in that office, the Jury Commission shall deposit it in any safe or vault in the court house to be designated on the Minutes of the Commission, and one of said keys thereof shall be kept by the President of the Jury Commission. The other of said keys shall be kept by a judge of a court of record having juries other than the probate or circuit court and in counties having no such court then by the judge of the circuit court for the sole use of the judges of the courts of said county needing jurors. The jury roll shall be kept securely and for the use of the Jury Commission exclusively. It shall not be inspected by any one except the members of the Commission or by the Clerk of the Commission upon the authority of the Commission, unless under an order of the judge of the circuit or other court of record having jurisdiction.

Section 14. The Jury Commission shall place on the jury roll and in the jury box the names of all male citizens of the county who are generally reputed to be honest and intelligent men and are esteemed in the community for their integrity, good character and sound judgment; but no person must be selected who is under twenty-one or over

sixty-five years of age or who is an habitual drunkard, or who, being afflicted with a permanent disease or physical weakness is unfit to discharge the duties of a juror; or cannot read English or who has ever been convicted of any offense involving moral turpitude. If a person cannot read English and has all the other qualifications prescribed herein and is a free holder or house holder his name may be placed on the jury roll and in the jury box.

Section 15. The Jury Commission in each of the counties of this State shall meet as soon after the approval of this Act as is practicable and empty the jury boxes in their respective counties and from the new jury roll prepared as herein prescribed refill such jury boxes. Provided, however, that the provisions of this Section (15) shall not apply to those counties in the State having a population of Three Hundred Thousand (300,000) or more according to the latest Federal Census, and in which the Jury box or boxes have been legally filled within twelve (12) months preceding the approval of this Bill.

Section 16. Whenever the names in the jury box are exhausted or so far depleted that they will probably be exhausted at the next drawing of jurors, the Jury Commission must proceed to make and certify a new roll and deposit the names in the box in all respects as provided in this Act, and for this purpose the Jury Commission must meet whenever it is necessary and refill the jury box.

Section 17. The Jury Commission is charged with the duty of seeing that the name of every person possessing the qualifications prescribed in this Act to serve as a juror and not exempted by law from jury duty, is placed on the jury roll and in the jury box. The Jury Commission must not allow initials only to be used for a juror's name but one full Christian name or given name shall in every case be used and in case there are two or more persons of the same or similar name, the name by which he is commonly distinguished from the other persons of the same or similar name shall also be entered as well as his true name. The Jury Commission shall require the Clerk of the Commission to scan the registration lists, the lists returned to the tax assessor, any city directories, telephone directories and any and every other source of information from which he may obtain information, and to visit every precinct at least once a year to enable the Jury Commission to properly perform the duties required of it by this Act. In counties having a population of more than 118,000 and less than 300,000, according to the last or any subsequent Federal Census, the Clerk of the Jury Commission shall be allowed an amount not to exceed Fifty Dollars (\$50.00) per calendar year to defray his expenses in the visiting of these precincts, said sum or so much thereof as is necessary to be paid out of the respective county treasury upon the order of the President of the Jury Commission.

Section 18. Whenever it shall appear to the Judge of the Circuit Court, or court of like jurisdiction, that the jury box is so nearly

exhausted as to require refilling, he shall notify the President of the Jury Commission, who in turn shall call together the other members of the Commission and shall proceed to refill the box as herein provided; provided, however the Judge of the Circuit Court, or court of like jurisdiction, may, whenever in his discretion he deems it necessary or expedient, call the Jury Commission together and empty and refill the jury box of the particular county, as herein provided.

Section 19. Whenever a court requiring grand and petit juries, or petit juries, is established for and held in a territorial sub-division of the county, the Jury Commission shall make and keep a separate roll and make a separate box for that court and territorial sub-division, on which roll and in which box only the names of jurors residing in that territory shall be placed, which box shall be kept by the clerk of said court and the key thereof by the judge of said court, and all jurors for that court shall be drawn by the judge of said court as provided in this Act from the separate jury box provided under this section, and shall be summoned as provided by law summoning jurors otherwise drawn. The names of jurors whose names are required to be placed on the roll and in the box in this section provided for, shall not be placed on any other roll nor in any other box nor shall any such person be authorized or required to serve as a juror in any court outside of said territorial sub-division. If there is more than one court requiring grand and petit juries, or petit juries established for and held in such territorial sub-division of the county, all of such courts shall procure their juries from the box in this section provided for, and this section is intended to apply to any division of a court that is held in such territorial sub-division, including the probate court. It is not the object or effect of this Section to repeal or affect any local law.

Section 20. The Judge of probate of every county shall, upon the request of the President of the Commission, purchase the necessary books in which to keep the jury rolls and the record of the proceedings, and the necessary cards, stationery, and things of all kinds required by the Commission, and shall draw his warrant on the county treasury for the payment of the same.

Section 21. The clerks of the several courts in which juries are empanelled shall, from time to time as the juries are empanelled, certify to the Jury Commission the names of all persons so empanelled, and the Clerk of the Commission, under the direction of the Commission shall note opposite the names of such persons on the jury roll the date on which and the court in which they were empanelled.

Section 22. The clerks of the several courts shall also certify to the Jury Commission the names of all persons who have been found by the court to be disqualified or exempt, which fact shall be noted opposite their respective names on the jury roll.

Section 23. Whenever it appears to the court that a persons' name has been placed upon a jury roll, who did not, at the time he

was enrolled, possess the qualifications required by law, the court may in its discretion, upon excusing the person from service, tax the cost of summoning the person and his attendance and excusing him against the Clerk of the Commission, or against any one or more of the members.

Section 24. Any authority, right, power and duty heretofore imposed by law on the Jury Board or the Clerk thereof and which is not by this Act specifically repealed, shall hereafter be exercised or performed by the Jury Commission or the clerk thereof respectively.

Section 25. That all laws, general, local or special, in conflict with any of the provisions of this Act be, and the same are hereby repealed, it being the intention of the Legislature that the subjects covered by this Act be the exclusive law on such subjects, except that nothing herein shall be construed as repealing, modifying, extending or limiting in any way the Act of the Legislature of Alabama, approved October 7, 1932, appearing in Act of Special Session of 1932, at page 89, et seq., nor the Act of the Legislature of Alabama, approved March 17, 1936, appearing in Acts of Special Session of 1936, at page 6, et seq., nor the Act of the Legislature of Alabama, approved July 15, 1931, appearing in General Acts of 1931, at page 455, et seq., nor the Local Act of the Legislature of Alabama, approved November 9, 1932, appearing in Local Acts of Special Session of 1932, at page 98, et seq., nor the Act of the Legislature of Alabama passed over the Governor's veto on June 18, 1931, appearing in General Acts of Regular Session of 1931, at page 301, et seq., but all of said Acts shall remain in full force and effect.

Approved March 2, 1939.

No. 60)

(S. 63—Stakely

AN ACT

To amend Section 8692 of the Code of Alabama of 1923, relating to Lodging and Refreshments when Jurors are Kept Together.

Be it Enacted by the Legislature of Alabama:

Section 1. That Section 8692 of the Code of Alabama of 1923 be amended to read: Whenever a jury is, by order of the Court, kept together without separation during any night, or for an unusual length of time, it is the duty of the Sheriff, with the approval of the Court, at the expense of the County, to provide for the jurors, and the bailiffs or deputy sheriffs in charge of, or attending, said jury, suitable lodging and meals.

Section 2. This Act shall take effect upon its approval by the Governor.

Approved March 3, 1939.

No. 61)

(S. 84—Hildreth

AN ACT

To amend Section 6672 of the Code of Alabama of 1923:

Be it Enacted by the Legislature of Alabama:

Section 1. That Section 6672 of the Code of Alabama of 1923, be amended so as to read as follows: Section 6672. WHEN COURTS TO BE OPENED AND CLOSED. The Courts of the several judicial circuits shall not be opened before nine o'clock A.M. of the first Monday set for the trial of jury cases, and in any event shall not engage in the trial of cases later than seven o'clock P.M. each day, except by agreement of counsel. The Court may continue in session until midnight the last day of the jury session if necessary. No order or judgment taken in violation of this section shall be declared to be void.

Approved March 3, 1939.

No. 62)

(H. 27—Robertson of Cullman

AN ACT

To provide that interest or other income, received from obligations of the United States or its possessions, or interest on bonds or other securities of any agencies or instrumentalities of the United States, or of corporations organized under the laws of the United States, received by any resident individual of the State of Alabama, or by any corporation organized under the laws of the State of Alabama, shall be included in the gross income of such person or corporation in determining liability for income taxes levied by the State of Alabama, due by such person or corporation, but without discrimination, and only to the same extent, and in the same manner other income is taxed, insofar as the State of Alabama now is, or hereafter may be constitutionally or legally authorized to tax such income.

Be it Enacted by the Legislature of Alabama:

Section I. That interest or other income on obligations of the United States, or its possessions, or interest or other income on bonds or other securities of any agencies or instrumentalities of the United States, or of corporations organized under the laws of the United States, received by any resident individual or by any corporation organized under the laws of the State of Alabama, shall be included in the gross income of such persons or corporation, in determining liability for income taxes, due by such person or corporation, but without discrimination, and only to the same extent, and in the same manner other income is taxed insofar as the State of Alabama now is or hereafter may be constitutionally or legally authorized to tax such income.

Section II. All laws or parts of laws in conflict herewith are hereby repealed.

Approved March 2, 1939.

No. 63)

(H. 30—Quarles

AN ACT

To prohibit assistant Attorneys General appointed by the Attorney General, or by the Attorney General with the approval of the Governor, from engaging in the private practice of law, except in cases where an assistant Attorney General is employed by the Attorney General, with the approval of the Governor, to render legal services for the State in a designated case; to require them to maintain offices in the Capitol, and to prohibit them from maintaining private law offices outside of the Capitol.

Be it Enacted by the Legislature of Alabama:

Section 1. All assistant Attorneys General of the State of Alabama appointed by the Attorney General, or by the Attorney General with the approval of the Governor, are hereby prohibited from engaging in the private practice of the law during the time they are such assistant Attorneys General; provided, however, that this prohibition shall not apply to assistant Attorneys General employed by the Attorney General, with the approval of the Governor, to perform legal services for the State in a designated case only.

Section 2. All assistant Attorneys General appointed by the Attorney General, or by the Attorney General with the approval of the Governor, except assistant Attorneys General employed by the Attorney General, with the approval of the Governor, to perform legal services for the State in a designated case only, are hereby required to maintain offices in the Capitol during the time they are assistant Attorneys General, and are hereby prohibited from maintaining private law offices outside of the Capitol during such time.

Section 3. This Act shall become effective upon its passage and approval by the Governor, or its otherwise becoming a law.

Approved March 2, 1939.

No. 64)

(H. 54—Segrest

AN ACT

To provide the salaries, fees, commissions, or other income of officers or agents of the United States, or of its agencies and instrumentalities, or its contractees, received from the United States, or from its agencies and instrumentalities, shall be subject to income taxes levied by the State of Alabama as other income is taxed, but without discrimination, and only to the same extent, and in the same manner other income is taxed, insofar as the State of Alabama now is, or hereafter may be constitutionally or legally authorized to tax such income.

Be it Enacted by the Legislature of Alabama:

Section I. That the salaries, fees, commissions, or other income of officers or agents of the United States or its agencies and instrumentalities or its contractees, received from the United States or from its

agencies and instrumentalities, shall be subject to income taxes levied by the State of Alabama as other income is taxed, but without discrimination, and only to the same extent, and in the same manner other income is taxed, insofar as the State of Alabama is now or hereafter may be constitutionally or legally authorized to tax such income.

Section II. All laws or parts of laws in conflict herewith, are hereby repealed.

Approved March 2, 1939.

No. 65)

(H. 57—Newman

AN ACT

To make taxable, property and activities of the United States and its agencies, except where the State of Alabama is without constitutional authority to impose such taxes.

Be it Enacted by the Legislature of Alabama:

Section 1. That property and activities of the United States and its agencies shall be taxable as other property and activities, except where the State of Alabama is without constitutional authority to impose such taxes.

Section 2. All laws or parts of laws in conflict herewith are hereby repealed.

Approved March 2, 1939.

No. 66)

(H. 78—Kaul

AN ACT

To amend Section 1 of Act No. 401, General Laws of Alabama, approved September 9, 1935, Acts of 1935, pp. 871-876, entitled An Act to provide for State planning of all public works and uses of land which are to be constructed or acquired with State funds, or located, constructed, or authorized by the State; all local improvements which, under the statutes, are required to be submitted to State authorities; also all projects of State magnitude, even though the construction and financing are to be done by local authorities exclusively; to provide for a State Planning Commission and to prescribe its composition, duties, powers and responsibilities; to authorize the legislature to provide the necessary appropriations to meet the expenses of carrying on the work of the commission under the provision of this Act."

Be it Enacted by the Legislature of Alabama:

Section 1. That section 1 of Act No. 401, General Laws of Alabama, approved September 9, 1935, Acts of 1935, pp. 871-876, entitled "An Act to provide for State planning of all public works and uses of land which are to be constructed or acquired with State funds, or located, constructed, or authorized by the State; all local improvements which,

under the statutes, are required to be submitted to State authorities; also all projects of State magnitude, even though the construction and financing are to be done by local authorities exclusively; to provide for a State Planning Commission and to prescribe its composition, duties, powers and responsibilities; to authorize the legislature to provide the necessary appropriations to meet the expenses of carrying on the work of the commission under the provision of this Act," be and it hereby is amended to read as follows: "Section 1. That there is hereby created and established a State Planning Commission to consist of the Governor, the State Superintendent of Education, the Director of Conservation, the Director of Finance, the State Geologist, a member of the Staff of the Agricultural Extension Service of the Alabama Polytechnic Institute, to be designated by the Governor, a member of the Staff of the State Highway Department, to be designated by the Governor, and four appointive members, all bona-fide residents and qualified voters of the State, who shall be appointed by the Governor and confirmed by the Senate. Of the appointive members, two shall be designated to serve for terms of four years, beginning February 1, 1939, and two shall be designated to serve for terms of eight years, beginning February 1, 1939. Their successors shall serve for terms of eight years and until their successors are appointed and qualified. Members of the Commission shall serve as such without compensation, but each shall be paid the actual expenses incurred in the performance of his duties as a member of the Commission, when approved by the chairman. The commission shall be known as the "State Planning Commission" of Alabama, and the members shall be State officers. Before entering upon the discharge of their duties, they shall take the oath of office prescribed for other state officers. The Commission shall have an appropriate seal with such words and emblem as the Commission may prescribe. Vacancies in the appointive membership of the Commission shall be filled by appointment of the Governor for the unexpired term. Five members of the Commission shall constitute a quorum for the transaction of business. Notice of all meetings of the Commission shall be given by the Secretary in such manner and under such rules and regulations as may be prescribed by the Commission."

Approved March 3, 1939.

No. 67)

(H. 83—McGowin

AN ACT

To further provide for the general revenue of the State of Alabama.

Be it Enacted by the Legislature of Alabama:

Section I. DEFINITIONS. The following words, terms and phrases when used in this act shall have the meaning ascribed to them in this Section, except where the context indicates a different

meaning: (a) The term "person" or the term "company" herein used interchangeably, includes any individual, firm, company, partnership, association, corporation, receiver or trustee, or any other group or combination acting as a unit, and the plural as well as the singular number, unless the intention to give a more limited meaning is disclosed by the context. (b) The term "Department" means the Department of Revenue of the State of Alabama. (c) The term "Commissioner" means the Commissioner of Revenue of the State of Alabama. (d) The term "wholesale sale" or "sale at wholesale" means a sale of tangible personal property by wholesalers to licensed retail merchants, jobbers, dealers, or other wholesalers for resale and does not include a sale by wholesalers to users or consumers not for resale. The term "wholesale sale" shall include a sale of tangible personal property or products (including iron ore) to a manufacturer or compounder which enters into and becomes an ingredient or component part of the tangible personal property or products which he manufactures or compounds for sale, and the furnished container and label thereof. (e) The term "sale at retail" or "retail sale" shall mean all sales of tangible personal property except those above defined as wholesale sales. The quantities of goods sold or prices at which sold are immaterial in determining whether or not a sale is at retail. Sales of building materials to contractors, builders or landowners for resale or use in the form of real estate are retail sales in whatever quantity sold. Sales of tangible personal property or products to manufacturers, quarry operators, mine operators or compounders, which are used or consumed by them in manufacturing, mining, quarrying or compounding and do not become an ingredient or component part of the tangible personal property manufactured or compounded are retail sales. (f) The word "business" as used in this act, shall include all activities engaged in, or caused to be engaged in, with the object of gain, profit, benefit or advantage, either direct or indirect, and not excepting sub-activities producing marketable commodities used or consumed in the main business activity, each of which sub-activities shall be considered business engaged in, taxable in the class in which it falls. (g) The term "storage" means and includes any keeping or retention in this state for any purpose except sale in the regular course of business or subsequent use solely outside this state of tangible personal property purchased at retail. (h) The term "use" means and includes the exercise of any right or power over tangible personal property incident to the ownership of that property, or by any transaction where possession is given, except that it shall not include the sale of that property in the regular course of business. (i) The term "purchase" means acquired for a consideration, whether such acquisition was effected by a transfer of title, or of possession, or of both, or a license to

use or consume; whether such transfer shall have been absolute or conditional, and by whatsoever means the same shall have been effected; and whether such consideration be a price or rental in money, or by way of exchange or barter. (j) The term "sales price" means the total amount for which tangible personal property is sold, including any services (including transportation) that are a part of the sale, valued in money, whether paid in money or otherwise, and includes any amount for which credit is given to the purchaser by the seller, without any deduction therefrom on account of the cost of the property sold, the cost of the materials used, labor or service cost, interest charged, losses or any other expenses whatsoever; provided, that cash discounts allowed and taken on sales shall not be included and sales price shall not include the amount charged for property returned by customers when the entire amount charged therefor is refunded either in cash or by credit. (k) The term "in this state" or "in the state" means within the exterior limits of the State of Alabama, and includes all territory within such limits owned by or ceded to the United States of America.

Section II. (a) An excise tax is hereby imposed on the storage, use or other consumption in this state of tangible personal property purchased at retail on or after the effective date of this act, for storage, use or other consumption in this state at the rate of two per cent (2%) of the sales price of such property, except as provided in subsection (b) of this section. (b) An excise tax is hereby imposed on the storage, use or other consumption in this state of any automotive vehicle purchased at retail on or after the effective date of this act, for storage, use or other consumption in this state at the rate of one-half of one per cent ($\frac{1}{2}$ of 1%) of the sales price of such automotive vehicle. Every person storing, using or otherwise consuming in this State tangible personal property purchased at retail shall be liable for the tax imposed by this act, and the liability shall not be extinguished until the tax has been paid to this State; provided, however, that a receipt from a retailer maintaining a place of business in this State or a retailer authorized by the Department, under such rules and regulations as it may prescribe, to collect the tax imposed hereby and who shall for the purposes of this act be regarded as a retailer maintaining a place of business in this State, given to the purchaser in accordance with the provisions of Section V. hereof, shall be sufficient to relieve the purchaser from further liability for a tax to which such receipt may refer.

Section III. EXEMPTIONS. The storage, use or other consumption in this State of the following tangible personal property is hereby specifically exempted from the tax imposed by this act: (a) Property, the gross proceeds of sales of which are required to

be included in the measure of the tax imposed by the provisions of House Bill 179 approved February 23, 1937 and known as the Alabama Luxury Tax Act or by the provisions of House Bill 82 approved February 8, 1939 and known as "An Act to Further Provide for the General Revenue of the State of Alabama." (b) Property, the storage, use or other consumption of which this state is prohibited from taxing under the constitution or laws of the United States of America or under the constitution of this state. (c) Tangible personal property, not to be used in the performance of a contract, brought into this state by a non-resident thereof for his own storage, use or consumption while temporarily within this state. (d) Property stored, used or consumed by the State of Alabama, by the counties within the State, or by incorporated municipalities of the State of Alabama. (e) Lubricating oil and gasoline as defined in schedules 138 and 156 respectively, of Section 348 of House Bill 324 approved July 10, 1935, or any amendments thereto, the storage, use or other consumption of which is otherwise taxed. (f) Textbooks used in elementary schools, high schools, and institutions of higher learning. (g) Alcoholic and/or cereal beverages, the sale, use or storage of which is now or may hereafter be controlled and/or licensed under the provisions of the "Alabama Beverage Control Act" or any amendments thereto. (h) Livestock, poultry and other products of the farm, dairy, grove or garden, when in the original state of production or condition of preparation for sale, when stored, used or consumed by the producer or members of his immediate family. Nothing herein shall be construed to exempt poultry or poultry products when not products of the farm. (i) All fertilizer. Provided, however, the word "fertilizer" as used in this act shall not be construed to include cotton seed meal when not in combination with other materials. (j) All seeds for planting purposes. Provided, however, nothing herein shall be construed to exempt plants, seedlings, nursery stock or floral products. (k) Boxes, crates, bags, bagging, ties, barrels or other containers, and the labels thereof, used in preparing agricultural products, dairy products, grove or garden products for market, including barrels and other containers and the labels thereof, used in preparing turpentine gum, gum spirits of turpentine and gum resin for market, when such boxes, crates, bags, bagging, ties, barrels and other containers and the labels thereof are to be sold or furnished by the seller of the products contained therein to the purchaser of such products. (1) Newsprint paper, newspapers and religious publications. (m) Coal or coke to be stored, used or consumed by manufacturers, electric power companies and transportation companies for use or consumption in the production of by-products or the generation of heat or power used (1) in manufacturing tangible personal property for sale (2) for the generation

of electric power or energy for use in manufacturing tangible personal property for sale or for sale (3) for the generation of motive power for transportation. (n) Articles containing tobacco as enumerated in and taxed under the provisions of Schedule 159 of Section 348 of H. B. 324 approved July 10, 1935 and any amendments thereto. (o) Railroad rails, railroad cars and vessels and barges of more than fifty tons burden, when purchased from the manufacturers or builders thereof. (p) Used automotive vehicles. (q) Transportation, Gas, water or electricity, of the kinds and natures, the rates and charges for which, when sold by public utilities, are customarily fixed and determined by the Public Service Commission of Alabama or like regulatory bodies. (r) Machines used in mining, quarrying, compounding, processing and manufacturing of tangible personal property; provided that the term "machines," as herein used, shall include machinery which is used for mining, quarrying, compounding, processing or manufacturing tangible personal property, and the parts of such machines, attachments and replacements therefor, which are made or manufactured for use on or in the operation of such machines and which are necessary to the operation of such machines and are customarily so used.

Section IV. Every seller of tangible personal property for storage, use or other consumption in this state, engaged in the business of selling at retail in this state, shall within thirty days after the effective date of this act, register with the Department and give the name and address of each agent operating in this state, the location of any and all distribution or sales houses or offices or other places of business in this state and such other information as the Department may require with respect to matters pertinent to the enforcement of this act: Provided, That it shall not be necessary for a seller, holding a license obtained pursuant to the provisions of House Bill 82 approved February 8, 1939 and any amendments thereto, to register with the Department as provided in this act.

Section V. Every such seller making sales of tangible personal property for storage, use or other consumption in this state, not exempted under the provisions of Section III., hereof, shall at the time of making such sales or, if the storage, use or other consumption of the tangible personal property is not then taxable hereunder, at the time such storage, use or other consumption becomes taxable hereunder, collect the tax imposed by this act from the purchaser, and give to the purchaser a receipt therefor in the manner and form prescribed by the Department. The tax required to be collected by the seller from the purchaser shall be displayed separately from the list, advertised in the premises, marked or other price on the sales check or other proof of sales. It shall be unlawful for any such seller to advertise or hold out or state to the

public or to any customer, directly or indirectly, that the tax or any part thereof imposed by this act will be assumed or absorbed by the seller or that it will not be added to the selling price of the property sold, or if added that it or any part thereof will be refunded. Any person violating any of the provisions of this Section shall be guilty of a misdemeanor. The tax herein required to be collected by the seller shall constitute a debt owed by the seller to this state.

Section VI. The tax imposed by this act shall be due and payable to the Department quarterly on or before the twentieth day of the month next succeeding each quarterly period during which the storage, use or other consumption of tangible personal property became taxable hereunder, the first of such quarterly periods being the period commencing with the first day of March, 1939, and ending the thirtieth day of June, 1939. Every such seller maintaining a place of business in this state shall on or before the twentieth day of the month following the close of the first quarterly period as above defined, and on or before the twentieth day of the month following each subsequent quarterly period of three months, file with the department a return for the preceding quarterly period in such form as may be prescribed by the department showing the total sales price of the tangible personal property sold by such seller, the storage, use or consumption of which became subject to the tax imposed by this act during the preceding quarterly period and such other information as the department may deem necessary for the proper administration of this act. The return shall be accompanied by a remittance of the amount of tax herein required to be collected by the seller during the period covered by the return. The department, if it deems it necessary in order to insure payment to the State of the amount of tax herein required to be collected by sellers, may require returns and payment of such amount of tax for other than quarterly periods. Returns shall be signed by the seller or his duly authorized agent but need not be verified by oath. Every person purchasing tangible personal property, the storage, use or other consumption of which is subject to the tax imposed by this act, and who has not paid the tax due with respect thereto to a seller required or authorized hereunder to collect the tax, shall on or before the twentieth day of the month following the close of the first quarterly period as above defined, and on or before the twentieth day of the month following each subsequent quarterly period of three months, file with the department a return for the preceding quarterly period in such form as may be prescribed by the department showing the total sales price of the tangible personal property purchased by such person, the storage, use or other consumption of which became subject to the tax imposed by this act during the preceding quar-

terly period, and with respect to which the tax was not paid to a seller required or authorized hereunder to collect the tax, and such other information as the department may deem necessary for the proper administration of this act. The return shall be accompanied by a remittance of the amount of tax herein imposed and not paid to a seller required or authorized hereunder to collect the tax during the period covered by the return. The department, if it deems it necessary in order to insure payment to the state of the amount of such tax may require returns and payment for other than quarterly periods. Returns shall be signed by the person liable for the tax or his duly authorized agent but need not be verified by oath. For the purpose of the proper administration of this act and to prevent evasion of the tax and the duty to collect the same herein imposed, it shall be presumed that tangible personal property sold by any person for delivery in this state is sold for storage, use or other consumption in this state unless the person selling such property shall have taken from the purchaser a certificate signed by and bearing the name and address of the purchaser to the effect that the property was purchased for resale and it shall be further presumed that tangible personal property shipped to this state by the purchaser thereof was purchased from a retailer on and after March 1st, 1939, for storage, use or other consumption in this state.

Section VII. Any person failing to pay any tax to the State or any amount of tax herein required to be collected and paid to the State, except amounts determined to be due by the department under the provisions of Sections VIII and IX hereof, within the time required by this act shall pay in addition to the tax or the amount of tax herein required to be collected a penalty of ten per cent (10%) thereof, plus interest at the rate of one-half of one per cent ($\frac{1}{2}$ of 1%) per month, or fraction thereof, from the date at which the tax or the amount of tax herein required to be collected became due and payable to the State.

Section VIII. If the Department is not satisfied with the return and payment of the tax or the amount of tax herein required to be paid to the State by any person, it is hereby authorized and empowered to compute and determine the amount required to be paid based upon the facts contained in the return or upon any information within its possession or that shall come into its possession. All amounts determined to be due under the provisions of this Section shall bear interest at the rate of one-half of one per cent ($\frac{1}{2}$ of 1%) per month, or fraction thereof, from the twentieth day after the close of the period or periods, as the case may be, for which such amounts were required to be reported to the department until paid. If any part of the deficiency for which a determination of an additional amount due is made is due to negligence or intentional disregard of the act or authorized rules and regula-

tions, a penalty of ten per cent (10%) of such amount shall be added thereto. If any part of the deficiency for which a determination of an additional amount due is made is due to fraud or an intent to evade the act or authorized rules and regulations, a penalty of twenty-five per cent (25%) of such amount shall be added thereto. The Department shall give to the retailer or person storing, using or consuming tangible personal property written notice of its determination. Such notice may be served personally or by mail. If by mail, said notice shall be addressed to the retailer or person storing, using or consuming tangible personal property at his address as the same appears in the records of the department and sent by registered mail, return receipt requested.

Section IX. If any person neglects or refuses to make a return required to be made by this act, the department shall make an estimate for the period or periods in respect to which such person failed to make a return, based upon any information in its possession or that may come into its possession, of the amount of the total sales price of tangible personal property sold or purchased by such person, the storage, use or other consumption of which in this State is subject to the tax imposed by this act, and upon the basis of said estimate compute and determine the amount required to be paid to the State, adding to the sum thus arrived at a penalty equal to ten per cent (10%) thereof. All amounts determined to be due under the provisions of this Section shall bear interest at the rate of one-half of one per cent ($\frac{1}{2}$ of 1%) per month, or fraction thereof, from the twentieth day after the close of the period or periods, as the case may be, for which such amounts were required to be reported to the department until paid. If the neglect or refusal of any person to file a return as required by this act was due to fraud or an intent to evade this act or rules and regulations hereunder, a penalty of twenty-five per cent (25%) of the amount required to be paid by such person shall be added thereto in addition to the ten per cent (10%) penalty as above provided. Promptly thereafter the department shall give to such person written notice of such estimate, determination and penalty, the notice to be served personally or by mail in the same manner as prescribed for service of notice by the provisions of Section VIII hereof.

Section X. If the department believes that the collection of any tax or any amount of tax herein required to be collected and paid to the state will be jeopardized by delay, it shall thereupon make a determination of such tax or the amount of tax herein required to be collected, noting that fact upon such determination, and the amount thereof shall be immediately due and payable. If the amount specified in the determination is not paid within ten days after the service upon the person against whom the determination is made of notice thereof, such amount becomes final at the

expiration of such ten days, unless a petition for redetermination is filed within such ten days, and the delinquency penalty and the interest provided in Section VII hereof shall attach to the amount of the tax or the amount of the tax required to be collected specified therein. The person against whom a jeopardy determination is made hereunder may petition for the redetermination thereof pursuant to Section XI hereof; provided, however, that such petition for redetermination must be filed with the department within ten days after the service upon such person of notice of the determination; and provided further, that such person must within said ten-day period deposit with the department such security as it may deem necessary to insure compliance with the provisions of this act. Such security may be sold by department in the manner prescribed in Section XIII hereof.

Section XI. Any person from whom an amount is determined to be due under the provisions of Sections VIII or IX hereof may petition for a redetermination thereof within thirty days after service upon such person of notice thereof. If a petition for redetermination is not filed within said thirty-day period, the amount determined to be due becomes final at the expiration thereof. If a petition for redetermination is filed within said thirty-day period, the department shall reconsider the amount determined to be due, and if such person has so requested in his petition, shall grant such person, his agent or attorney an oral hearing and shall give such person ten days' notice of the time and place thereof. The department shall have power to continue the hearing from time to time as may be necessary. The order or decision of the department upon a petition for redetermination shall become final thirty days after service upon such person of notice thereof. All amounts determined to be due by the department under the provisions of Section VIII or IX hereof shall become due and payable at the time they become final and if not paid when due and payable there shall be added thereto a penalty of ten per cent (10%) of the amount determined to be due. Any notice required by this Section shall be served personally or by mail in the same manner as prescribed for service of notice by the provisions of Section VIII hereof.

Section XII. The department for good cause may extend for not to exceed thirty days the time for making any return required under the provisions of this Act.

Section XIII. The department whenever it deems it necessary to insure compliance with the provisions of this act, may require any person subject thereto to deposit with it such security as the Department may determine. The same may be sold by the Department at public auction if it becomes necessary so to do in order to recover any tax, or any amount herein required to be collected, in-

terest or penalty due. Notice of such sale may be served upon the person who deposited such security personally or by registered mail; if by mail, service shall be made by registered notice, return receipt requested, addressed to the person at his address as the same appears in the records of the department. Upon any such sale, the surplus, if any, above the amounts due under this act shall be returned to the person who deposited the security.

Section XIV. Except in the case of a fraudulent return, or neglect or refusal to make a return, every notice of a determination of an additional amount due shall be mailed within three years after the return is filed.

Section XV. All taxes or amounts herein required to be collected not paid to the department on the date when the same become due and payable shall bear interest at the rate of one-half of one percent ($\frac{1}{2}$ of 1%) per month, or fraction thereof, from and after the date when the same became due and payable until paid.

Section XVI. If upon examination it is determined by the department that an amount of tax or an amount required to be collected has been paid to the state in excess of the amount properly due, then the amount in excess shall be credited against any tax or amount required to be collected then due from such person and any balance of such excess shall be refunded to such person by whom such overpayment was made, by certificate of overpayment issued by the department to the State Comptroller. If approved by the Comptroller, he shall draw his warrant on the State Treasurer for the amount so certified to be due.

Section XVII. If fraud or evasion on the part of any person is discovered by the department, it shall determine the amount by which the state has been defrauded, shall add to the amount so determined a penalty equal to twenty-five per cent (25%) thereof, and shall determine the same to be due from such person. All amounts determined to be due from any person under the provisions of this Section shall bear interest at the rate of one-half of one per cent ($\frac{1}{2}$ of 1%) per month, or fraction thereof, from the fifteenth day after the close of the period or periods, as the case may be, for which such amounts should have been paid. The amount so determined shall be immediately due and payable and if not paid within ten days after the service upon such person of notice of the amount determined to be due, the delinquency penalty and interest provided in Section VII hereof shall attach thereto.

Section XVIII. The tax or any amount required to be collected hereunder together with interest and penalties imposed by this Act shall be a lien upon the property of the person required to pay such tax or other amount to the State, and the provisions of the revenue laws of the State of Alabama applying to liens for license taxes shall apply fully to the taxes herein levied.

Section XIX. If any retailer liable for an amount of tax herein required to be collected shall sell out his business or stock of goods or shall quit the business, he shall make a final return and payment within fifteen days after the date of selling or quitting business. His successor, successors or assigns, if any, shall be required to withhold sufficient of the purchase money to cover the amount of such taxes herein required to be collected and interest or penalties due and unpaid until such time as the former owner shall produce a receipt from the department showing that they have been paid, or a certificate stating that no amount is due. If the purchaser of a business or stock of goods shall fail to withhold purchase money as above provided, he shall be personally liable for the payment of the amount of taxes herein required to be collected by the former owner, interest and penalties accrued and unpaid by any former owner, owners or assignors.

Section XX. Every seller and every person storing, using or otherwise consuming in this State tangible personal property purchased from a retailer shall keep such records, receipts, invoices and other pertinent papers in such form as the department may require. The department or any person authorized in writing by it is hereby authorized to examine the books, papers, records and equipment of any person selling tangible personal property and any person liable for the tax imposed by this act and to investigate the character of the business of any such person in order to verify the accuracy of any return made, or if no return was made by such person, to ascertain and determine the amount required to be paid hereunder. The department is hereby charged with the enforcement of the provisions of this act and is hereby authorized and empowered to prescribe, adopt and enforce rules and regulations relating to the administration and enforcement of the provisions of this act and to employ such accountants, auditors, investigators, assistants and clerks as may be determined to be necessary for the efficient administration of this act.

Section XXI. It shall be unlawful for the department, or any person having an administrative duty under this act to divulge or to make known in any manner whatever, the business affairs, operations, or information obtained by an investigation of records and equipment of any retailer or any other person visited or examined in the discharge of official duty, or the amount or source of income, profits, losses, expenditures or any particular thereof, set forth or disclosed in any return, or to permit any return or copy thereof or any book containing any abstract or particulars thereof to be seen or examined by any person except as provided by law; Provided, however, that the Governor may authorize examination of such returns by other State officers, by tax officers of another state, or the Federal Government, if a reciprocal arrangement

exists, and any other persons the Governor may so authorize. Any violations of the provisions of this section shall be a misdemeanor and be punished by a fine not exceeding one thousand dollars (\$1,000) or by imprisonment not exceeding one year, or both, at the discretion of the Court.

Section XXII. All taxes, fees, interest and penalties imposed and all amounts of tax herein required to be paid to the state under this act must be paid to the Department of Revenue of Montgomery, Alabama, with remittances payable to the State Treasurer of Alabama. The funds received or collected by the department under the provisions of this act shall be, without delay, deposited in the State Treasury. The amount remaining after payment of all expenses incurred by the department in the collection of such funds or the administration of this act, shall be paid into the Special Educational Trust Fund to be expended only for salaries of teachers in the elementary and high schools of the State.

Section XXIII. At any time within three years after any amount herein required to be collected has become due and payable and any time within three years after the delinquency of any tax, the department may bring an action in the courts of this State, or any other state or in any court of the United States in the name of the State of Alabama to collect the amount delinquent, together with penalties and interest. Such action may be prosecuted by the Attorney General or the legal counsel for the department. In such action a writ of attachment may issue, and no bond or affidavit previous to the issuing of said attachment is required. In such action a certificate by the department showing the delinquency shall be prima facie evidence of the determination of the amount due hereunder, of the delinquency and of the compliance by the department with all the provisions of this act in relation to the computation and determination of such amount. In any action brought under the provisions of this act process may be served as in other cases or may be served upon any agent or clerk in this state employed by any seller in a place of business maintained by such seller in this State, in which case a copy of the process shall forthwith be sent by registered mail to the seller at his principal or home office.

Section XXIV. No injunction or writ of mandate or other legal or equitable process shall issue in any suit, action or proceeding in any court against this State or against any officer thereof to prevent or enjoin under this act the collections of any tax or any amount of tax herein required to be collected; but after payment of any such tax or any such amount of tax herein required to be collected under protest, duly verified and setting forth the grounds of objection to the legality thereof, the retailer or person making the

payment may bring an action against the Commissioner of Revenue in the Circuit Court of Montgomery County, Alabama in equity, praying a declaratory judgment determining his tax liability for the amount so paid or his rights to a refund thereof. From the decree of the Circuit Court either the Commissioner or the person making the payment may appeal direct to the Supreme Court within thirty days and such appeal shall be a preferred case. Upon the rendition of any final judgment declaring that the person making the payment is entitled to a refund thereof, either in whole or in part then it shall be the duty of the State Comptroller or other proper officer upon presentation of a certified copy of such final decree to issue his warrant in favor of such person for the sum determined to be due together with interest at six (6%) per cent per annum. No such action may be instituted more than one year after the tax or the amount herein required to be collected and paid to the State becomes due and payable, and failure to bring suit within said one year shall constitute waiver of any and all demands against the State on account of alleged overpayments hereunder. In no case shall any judgment be rendered in favor of the plaintiff in any action brought against the Commissioner to recover any amount paid hereunder when such action is brought by or in the name of an assignee of the seller or other person paying said amount, or by any person other than the person who has paid such amount.

Section XXV. Any seller or other person failing or refusing to furnish any return hereby required to be made, or failing or refusing to furnish a supplemental return or other data required by the department, or rendering a false or fraudulent return, shall be guilty of a misdemeanor and subject to a fine of not exceeding five hundred dollars (\$500) for each such offense. Any person required to make, render, sign or verify any report as aforesaid who makes any false or fraudulent return, with intent to defeat or evade the determination of an amount due required by law to be made, shall be guilty of misdemeanor, and shall for each such offense be fined not less than three hundred dollars (\$300) and not more than five thousand dollars (\$5,000) or be imprisoned not exceeding one year in the county jail or be subject to both said fine and imprisonment in the discretion of the court.

Section XXVI. Any violation of the provisions of this act, except as otherwise herein provided shall be a misdemeanor and punishable as such.

Section XXVII. That the provisions of this Act are severable and if any section or sections, paragraph or paragraphs, sentence or sentences, clause or clauses, phrase or phrases, word or words of this act shall be held to be unconstitutional by the valid judgment or decree of any court of competent jurisdiction, the same

shall not affect or impair any of the remaining provisions, sections, paragraphs, sentences, clauses, phrases and, or words of this act. It is hereby declared to be the legislative intent that this act and each section, paragraph, sentence, clause, phrase or word thereof would have been enacted had such unconstitutional section or sections, paragraph or paragraphs, sentence or sentences, clause or clauses, phrase or phrases, and word or words not been included herein.

Section XXVIII. This act shall be effective upon the first of the month following its passage.

Section XXIX. All laws and parts of laws in conflict herewith are hereby specifically repealed.

Approved February 28, 1939.

No. 68)

(H. 134—Welch

AN ACT

Authorizing The Judges Of Probate, Registers Of The Circuit Courts In Equity, Or Officers Of Other Courts Having Jurisdiction Of Partial Or Final Settlements Of The Estates Of Deceased Persons To Satisfy Claims Legally Filed Against Such Estates And Recorded In The Solvent Docket Book In The Office Of The Probate Court, When Satisfied From The Evidence On A Partial Or Final Settlement That Such Claims Have Been Paid.

Be it Enacted by the Legislature of Alabama:

Section One. That any Judge of Probate, Register of any Circuit Court in equity, or officer of any other court in Alabama having jurisdiction of partial or final settlement of estates of deceased persons shall be authorized to satisfy any claim legally filed against such estates and recorded in the solvent docket book in the office of the Probate Court, when satisfied from the evidence presented on a partial or final settlement that such claims have been paid.

Section Two. That such satisfaction shall have the effect of notifying all interested parties that evidence of payment of such debt has been filed in the Court.

Section Three. That for each such satisfaction the officer shall be paid a fee of twenty-five cents.

Section Four. That all laws and parts of laws in conflict herewith are hereby repealed.

Section Five. That this Act shall take effect immediately upon the passage and approval by the Governor.

Approved March 3, 1939.

No. 69)

(H. 143—Stone

AN ACT

To Authorize the Vacation of Any Street or Alley in Whole or in Part by the Owner or Owners of Lands Abutting the Parts of Such Street or Alley to be Vacated, Provided That If Such Street or Alley is Within the Limits of a Municipality the Assent to Such Vacation of the Governing Body of the Municipality Must be Procured and If Such Street or Alley Has Been or Is Used as a Public Road and Is Not Within the Limits of Any Municipality the Assent to Such Vacation of the Board of Revenue or Court of County Commissioners of the County in Which Such Street or Alley is Situated Must be Procured.

Be it Enacted by the Legislature of Alabama,

Section 1. Any street or alley may be vacated in whole or in part by the owner or owners of the land abutting the street or alley, or abutting that portion of the street or alley desired to be vacated, joining in a written instrument declaring the same to be vacated, such written instrument to be executed, acknowledged and recorded in like manner as conveyances of land, which declaration being duly recorded shall operate to destroy the force and effect of the dedication of said street or alley or portion vacated and to divest all public rights, including any rights which may have been acquired by prescription, in that part of the street or alley so vacated; provided, however, that if any such street or alley is within the limits of any municipality, the assent to such vacation of the city council or other governing body of the municipality, must be procured, evidenced by a resolution adopted by such governing body, a copy of which, certified by the clerk or ministerial officer in charge of the records of the municipality must be attached to, filed and recorded with the written declaration of vacation, and if any such street or alley has been or is being used as a public road, and is not within the limits of any municipality, the assent to such vacation of the board of revenue or court of county commissioners of the county in which such street or alley is situated must be procured, evidenced by resolution adopted by such board or court, a copy of which certified by the chairman or president or other head thereof, must be attached to, filed and recorded with the declaration of vacation. Such vacation shall not deprive other property owners of such right as they may have to convenient and reasonable means of ingress and egress to and from their property and if such right is not afforded by the remaining streets and alleys, another street or alley affording such right must be dedicated.

Section 2. The provisions of this Act shall not be held to repeal any existing statute relating to the vacation of streets or alleys or parts thereof.

Approved February 28, 1939.

No. 70)

H. 151—Mayhall

AN ACT

To provide an allowance in lieu of an allowance for expenses incurred by each Official Court Reporter in the Fourteenth Judicial Circuit of Alabama in traveling over said Circuit in the performance of official duties, and to cover all such expenses, and to provide the time, way and manner of payment of such allowance.

Be it Enacted by the Legislature of Alabama:

Section 1. That in the Fourteenth Judicial Circuit of Alabama each Official Court Reporter shall, in addition to the salary provided by law, and in lieu of an allowance for expenses incurred by him in traveling over the Fourteenth Judicial Circuit of Alabama in the performance of his official duties, and to cover all such expenses, he be paid the sum of Four Hundred Dollars (\$400.00) per year, the same to be paid at the same time and in the same way and manner as is now, or may hereafter be provided by law for payment of his official salary.

Section 2. That all laws or parts of laws in conflict with the provisions of this Act, whether general, local or special be, and the same are, hereby expressly repealed.

Section 3. That this Act shall go into effect upon its approval by the Governor.

Approved March 3, 1939.

No. 72)

(H. 198—Davis of Montgomery)

AN ACT

To repeal an act entitled An Act to prescribe the qualifications, duties, and to impose additional duties, and fix the compensation and allowance of coroners in all counties of this State which now have or may hereafter have a population of more than seventy-five thousand people and less than one hundred thousand people, according to the last United States Census, or any such census which may hereafter be taken, Approved March 9th., 1931.

Be it Enacted by the Legislature of Alabama:

Section 1. That an act entitled An Act to prescribe the qualifications, duties, and to impose additional duties, and fix the compensation and allowance of coroners in all counties of this State which now have or may hereafter have a population of more than seventy-five thousand people and less than one hundred thousand people, according to the last United States Census, or any such census which may hereafter be taken, Approved March 9, 1931, be and the same is hereby repealed.

Section 2. That this Act shall take effect upon its approval by the Governor.

Approved March 1, 1939.

No. 73)

(H. 199—Davis of Montgomery)

AN ACT

To repeal an act entitled An Act to amend section 3 of an act entitled "An Act to prescribe the qualifications, duties, and to impose additional duties and fix the compensation and allowance of coroners in all counties of this State which now have or may hereafter have a population of more than seventy-five thousand people and less than one hundred thousand people, according to the last United States Census, or any such census which may hereafter be taken, Approved March 9, 1931." Approved June 6, 1935.

Be it Enacted by the Legislature of Alabama:

Section 1. That an act entitled An Act to amend Section 3 of an act entitled "An Act to prescribe the qualifications, duties, and to impose additional duties and fix the compensation and allowance of coroners in all counties of this State which now have or may hereafter have a population of more than seventy-five thousand people and less than one hundred thousand people, according to the last United States Census, or any such census which may hereafter be taken, approved March 9, 1931," approved June 6, 1935, be and the same is hereby repealed.

Section 2. That this Act shall become effective upon its approval by the Governor.

Approved March 1, 1939.

No. 74)

(H. 200—Davis of Montgomery)

AN ACT

To repeal an act entitled An Act "to authorize and order an election by the qualified electors to determine whether there shall be levied in addition to all other taxes, an excise tax of one (1c) cent per gallon on gasoline, and/or substitute for same, to be devoted exclusively to the maintenance and operation of public schools, in all counties in this State which now have a population of not less than seventy-five thousand nor more than one hundred thousand persons, according to the last Federal Census, or according to any such census hereafter taken, and to provide for the method and expenses of collection of said tax when levied, and penalties for failure to pay same," approved July 30th, 1931.

Be it Enacted by the Legislature of Alabama:

Section 1. That an act entitled An Act "to authorize and order an election by the qualified electors to determine whether there shall be levied in addition to all other taxes, an excise tax of one (1c) per gallon on gasoline, and/or substitutes for same, to be devoted exclusively to the maintenance and operation of public schools, in all counties in this State which now have a population of not less than seventy-five thousand nor more than one hundred thousand persons, according to the last Federal Census, or accord-

ing to any such census hereafter taken, and to provide for the method and expenses of collection of said tax when levied, and penalties for failure to pay same," Approved July 30th, 1931, be and the same is hereby repealed.

Section 2. That this Act shall become effective within thirty days after its approval by the Governor.

Approved March 1, 1939.

No. 79)

(H. 205—Diffly

AN ACT

To repeal an act entitled An Act to fix the salaries to be paid the members of the Courts of County Commissioners or Boards of Revenue and other courts of like jurisdiction in all counties in this State which now have or which may hereafter have a population of 75,000 people and less than 100,000 people according to the last Federal Census or any such census which may hereafter be taken, and to regulate the payment of the same, to provide for the clerical help and other assistance to said officers and the manner of fixing their compensation and paying the same and to provide rules and regulations for the payment and conduct of such officers, Approved Feby. 12, 1931.

Be it Enacted by the Legislature of Alabama:

Section 1. That an act entitled An Act to fix the salaries to be paid the members of the Courts of County Commissioners or Boards of Revenue and other courts of like jurisdiction in all counties in this State which now have or which may hereafter have a population of 75,000 people and less than 100,000 people according to the last Federal Census or any such census which may hereafter be taken, and to regulate the payment of same, to provide for the clerical help and other assistance to said officers and the manner of fixing their compensation and paying the same and to provide rules and regulations for the payment and conduct of such officers, approved February 12th., 1931, be and the same is hereby repealed.

Section 2. That this Act shall be effective from and after its approval by the Governor.

Approved March 1, 1939.

No. 80)

(H. 206—Diffly

AN ACT

TO AMEND SECTION 6717 OF THE CODE AS SAID SECTION WAS LAST AMENDED BY THE ACT APPROVED FEBRUARY 20, 1931, GENERAL ACTS, REGULAR SESSION, 1931, AT PAGES 66-67.

Be it Enacted by the Legislature of Alabama:

Section 1. That the Act to amend Section 6717 of the Code of Alabama, 1923, approved February 20, 1931 (Acts, Regular Session,

1931, pages 66-67), be and the same is hereby amended so as to read as follows: 6717. (3265) (926) (663) (760) (642). COMPENSATION TO SUCH BAILIFFS. Bailiffs actually serving in court shall receive three dollars a day for every day they serve, to be paid out of the county treasury on the certificate of the presiding judge showing that his service was necessary. In circuits composed of one county having two circuit judges each judge of said courts shall have the power and authority to appoint one bailiff who shall receive a salary of \$2100.00 per annum, payable in twelve equal monthly installments out of the treasury of the county constituting such circuit, upon warrant of the President of the Board of Revenue. Said bailiffs, while not engaged as such, shall be used by the sheriffs of the said counties as deputies and be under his direction and control while acting as such deputies. They shall execute bonds as other deputies in such counties and the premiums and said bonds shall be paid by said counties. In circuits composed of one county having three circuit judges, each judge shall have the power and authority to appoint one bailiff, and the sheriff of such county shall have the power and authority to appoint two additional bailiffs. The bailiffs so appointed by the sheriff shall hold office at the will and pleasure of the sheriff. Each bailiff appointed by a judge of such court shall hold office at the will and pleasure of the judge so appointing him. Each such bailiff shall, in addition to the duties now imposed upon him, be required to wait upon all grand juries while in session when directed by the judge so appointing them, and each such bailiff shall receive a salary of \$2400.00 per annum, payable in twelve equal monthly installments out of the treasury of the county constituting said circuit upon the warrant of the President of the Board of Revenue and each bailiff so appointed by the sheriff of such county shall, in addition to the duties now imposed upon him, be required to serve process issued out of said courts under the direction of the sheriff, and may serve as deputy sheriff while not engaged in performing their duties as bailiffs, and shall receive a salary of \$2400.00 per annum, payable in twelve equal monthly installments out of the treasury of the county constituting said circuit upon the warrant of the President of the Board of Revenue. The bailiffs appointed by the judges under this section shall be in lieu of bailiffs for said courts provided for under section 6716 of the Code of Alabama, 1923. Nothing in this section or the preceding section shall apply to circuits having five or more judges.

Section 2. All laws and parts of laws in conflict with this Act are hereby repealed.

Section 3. This Act shall become effective immediately upon its passage.

Approved March 1, 1939.

No. 82)

(H. 208—Sightler

AN ACT

To repeal an Act, entitled "An Act to fix the compensation or salaries to be paid the tax collectors and tax assessors in all counties in this State which now have or which may hereafter have a population of seventy-five thousand people and less than one hundred thousand people according to the last Federal Census or any such census which may hereafter be taken, where such officers are constitutionally paid upon a salary basis, and to regulate the payment of same, to provide for the selection of clerical help and other assistance to said officers and the manner of fixing their compensation and paying the same, and to provide rules and regulations for the payment and conduct of such officers; and to require all of said officers to pay into the county treasury of said counties all costs, charges of courts, fees and commissions authorized by law to be collected by said officers as other monies belonging to said counties are paid, except any salary, fees or commissions paid said officers for collecting taxes for any municipality," approved March 5, 1931.

Be it Enacted by the Legislature of Alabama:

Section 1. That an Act entitled, "An Act to fix the compensation or salaries to be paid the tax collectors and tax assessors in all counties in this State which now have or which may hereafter have a population of seventy-five thousand people and less than one hundred thousand people according to the last Federal Census or any such census which may hereafter be taken, where such officers are constitutionally paid upon a salary basis, and to regulate the payment of same, to provide for the selection of clerical help and other assistance to said officers and the manner of fixing their compensation and paying the same, and to provide rules and regulations for the payment and conduct of such officers; and to require all of said officers to pay into the county treasury of said counties all costs, charges of courts, fees and commissions authorized by law to be collected by said officers as other monies belonging to said counties are paid, except any salary, fees or commissions paid said officers for collecting taxes for any municipality," approved March 5, 1931, be and the same is hereby repealed.

Section 2. That this Act shall become effective upon its approval by the Governor.

Approved March 1, 1939.

No. 85)

(H. 211—Sightler

AN ACT

To repeal an Act, entitled "An Act to fix the compensation of salaries and allowances to be paid to Sheriffs in all counties in this State, which now have or which may hereafter have a population of 75,000 people and less than 100,000 people according to the last Federal census or any such census which may hereafter be taken where such sheriffs are constitutionally paid upon a salary basis and to regulate the payment of same, and to

regulate the office of said sheriff, and to impose additional duties upon said sheriffs, and to provide for deputies and other assistance to said sheriffs and the selection and appointment thereof and the manner of fixing their compensation and provide for paying the same, and to provide for the payment of premium of such sheriffs and deputies' bonds, and to authorize, empower and require the courts of county commissioners, Boards of Revenue or other courts of like jurisdiction to provide and furnish the said sheriffs with necessary quarters, books, stationery and other necessities and conveniences to the sheriffs of such counties and to provide for the payment of same," approved February 20, 1931.

Be it Enacted by the Legislature of Alabama:

Section 1. That an Act entitled, "An Act to fix the compensation or salaries and allowances to be paid to Sheriffs in all counties in this State, which now have or which may hereafter have a population of 75,000 people and less than 100,000 people according to the last Federal census or any such census which may hereafter be taken where such sheriffs are constitutionally paid upon a salary basis and to regulate the payment of same, and to regulate the office of said sheriff, and to impose additional duties upon said sheriffs, and to provide for deputies and other assistance to said sheriffs and the selection and appointment thereof and the manner of fixing their compensation and provide for paying the same, and to provide for the payment of premium of such sheriffs' and deputies' bonds, and to authorize, empower and require the courts of county commissioners, Boards of Revenue or other courts of like jurisdiction to provide and furnish the said sheriffs with necessary quarters, books, stationery and other necessities and conveniences to the sheriffs of such counties and to provide for the payment of same," approved February 20, 1931, be and the same is hereby repealed.

Section 2. That this Act shall become effective upon its approval by the Governor.

Approved March 1, 1939.

No. 87)

(H. 213—Sanderson

AN ACT

To repeal an Act, entitled "An Act to amend an Act to authorize and empower Boards of Revenue in Counties having a population of not less than 75,000 and not more than 100,000 inhabitants according to the Federal Census of 1930, and which may hereafter have such population according to any Federal Census hereafter taken, to expend county Funds not exceeding \$6,000.00 per annum for county purposes not otherwise provided for by law." Approved February 20, 1931. And to repeal an Act "To authorize and empower Boards of Revenue in Counties having a population of not less than 75,000 and not more than 100,000 inhabitants according to the Federal Census of 1930, and which may hereafter have such population according to any Federal Census hereafter taken, to expend County funds not exceeding \$5,000 per annum for County pur-

poses not otherwise provided for by law," Approved February 12, 1931," approved July 22, 1931.

Be it Enacted by the Legislature of Alabama:

Section 1. That an Act entitled, "An Act to amend an Act "To authorize and empower Boards of Revenue in Counties have a population of not less than 75,000 and not more than 100,000 inhabitants according to the Federal Census of 1930, and which may hereafter have such population according to any Federal Census hereafter taken, to expend county Funds not exceeding \$6,000.00 per annum for county purposes not otherwise provided for by law," Approved February 20, 1931. And to repeal an Act "To authorize and empower Boards of Revenue in Counties having a population of not less than 75,000 and not more than 100,000 inhabitants according to the Federal Census of 1930, and which may hereafter have such population according to any Federal Census hereafter taken, to expend County funds not exceeding \$5,000 per annum for County purposes not otherwise provided for by law." Approved February 12, 1931, approved July 22, 1931, be and the same is hereby repealed.

Section 2. That this Act shall become effective upon its approval by the Governor.

Approved March 1, 1939.

No. 88)

(H. 216—Diffly

AN ACT

To repeal an act entitled An Act "To create in all counties of the State of Alabama which now have not less than seventy-five thousand and not more than one hundred ten thousand inhabitants according to the Federal census of 1930, and which may hereafter have such population according to any Federal census hereafter taken, the office of special officer, to prescribe his duties and the method of his appointment, fix his term or office, and to fix his compensation and prescribe the method of payment thereof. Approved March 2, 1931.

Be it Enacted by the Legislature of Alabama:

Section 1. That an act entitled an act "To create in all counties of the State of Alabama which now have not less than seventy-five thousand and not more than one hundred ten thousand inhabitants according to the Federal census of 1930, and which may hereafter have such population according to any Federal census hereafter taken, the office of special officer, to prescribe his duties and the method of his appointment, fix his term of office, and to fix his compensation and prescribe the method of payment thereof. Approved March 2, 1931, be and the same is hereby repealed.

Section 2. That this act shall become effective immediately upon its approval by the Governor.

Approved March 1, 1931.

No. 90)

(H. 254—Robertson of Cullman

AN ACT

To provide for and authorize the election of Recorder by the Board of Commissioners in all cities in the State of Alabama operating under the commission form of government or which may hereafter operate under such commission form of government, and to authorize such Board of Commissioners to fix the salary or compensation of such Recorder and provide that such Recorder's term of office shall be at the will of the Commission and to fix the jurisdiction of such Recorder.

Be it Enacted by the Legislature of Alabama:

Section 1. That the Board of Commissioners in all cities in the State of Alabama which now operate under the commission form of government or which hereafter may operate under such commission form of government, may elect a Recorder for such city and fix the salary and compensation of such Recorder and such Recorder shall serve at the will or pleasure of said Board of Commissioners.

Section 2. That such Recorder shall have the power and right to try all cases arising from the violation of city ordinances or other laws over which Recorders or municipal courts may now or hereafter have jurisdiction and also all power and authority conferred upon Recorders in Article 18, Chapter 43 of the 1923 Code of Alabama, or which may hereafter be conferred by law on Recorders of municipalities.

Section 3. All laws and parts of laws, general, special, or local, in conflict with this Act are expressly repealed.

Section 4. This Act shall go into effect upon its passage and approval.

Approved March 3, 1939.

No. 91)

(H. 261—Gewin

AN ACT

To create the State Department of Corrections and Institutions, to provide for its personnel, powers, functions and duties and the method of exercising such powers, functions and duties, to abolish the State Board of Administration and any other department, board, bureau, commission, agency or office of the State exercising any of the powers, functions or duties conferred by this Act upon the Department of Corrections and Institutions, to transfer their functions and duties, employees, appropriations, records and property to the Department of Corrections and Institutions, and to make other provisions concerning penal and correctional institutions, probation and parole, and related matters.

Be it Enacted by the Legislature of Alabama:

Section 1. DEFINITIONS. As used in this Act, the term "State Department" shall mean the State Department of Corrections and Institutions, the term "Director" shall mean the Director

of the State Department of Corrections and Institutions, and the term "he," "him" or "his" shall mean he or she, him or her or his or her.

Section 2. CREATION OF THE DEPARTMENT OF CORRECTIONS AND INSTITUTIONS; SEAL OF DEPARTMENT. There is hereby created the Department of Corrections and Institutions of the State of Alabama, which shall be an executive and administrative department in order to enable the Governor to exercise a direct and effective control over penal and correctional institutions and the supervision of probationers and parolees and in order to provide cooperative services with the State Department of Public Welfare, eleemosynary institutions, and other related agencies. The State Department shall have a seal which shall be affixed to official acts and deeds of the State Department.

Section 3. FUNCTIONS AND DUTIES. The functions and duties of the State Department shall include the following: 1. To manage, supervise and control all penal and correctional institutions except as otherwise herein provided. 2. To exercise all the powers and duties now performed by the State Board of Administration pertaining to the Convict Department. 3. To sell, distribute, process or otherwise dispose of all farm products, livestock, or poultry raised, or articles, goods or wares made or manufactured by use of labor or machinery under the control or supervision of this Department, or any personal property not needed. 4. To inspect as often as may be deemed necessary every county jail and every municipal jail or prison in any incorporated town or city in this State having ten thousand or more population, according to the last Federal Census, and to aid in securing the just, humane and economic management of all such institutions; to require the erection of sanitary buildings for the accommodations of the inmates of such institutions, to investigate the management of all such institutions and the conduct and efficiency of the officers or persons charged with their management, and to perform all the functions and duties formerly delegated by law to the State Prison Inspector which office was abolished by Act No. 61, approved February 9, 1935. 5. To formulate and promulgate such rules and regulations as are necessary with reference to hygiene, sanitation, cleanliness, healthfulness, feeding of prisoners, management and security of all prisons and jails. 6. To supervise the employment of prisoners within or without the walls or enclosures of all State prisons and other State institutions housing persons convicted of crime except prisoners in mental hospitals and asylums. 7. To collect statistics and to make a detailed report to the Governor annually or at such other time as the Governor may require, concerning the condition of any or all prisons and jails

and the inmates thereof. 8. To assist and cooperate with any court having criminal jurisdiction in the administration of any law with respect to parole if and when such law shall become effective. 9. To supervise and control probationers if and when any laws with respect to probationers shall become effective. 10. To assist and cooperate with the Governor in the administration of any law with respect to pardons and paroles, so long as the Governor shall be charged with the administration of such law, or with any Board of Pardon and Parole in the administration of any law with respect to pardons and paroles, if and when such Board shall have been created and charged with the administration of such law. 11. To cooperate with the State Department of Public Welfare in the discharge of any duties and functions which may be delegated by law to such Department with reference to persons committed to State penal institutions, and with reference to families or children of such persons who may be in need of public welfare services or assistance.

Section 4. ABOLITION OF CERTAIN AGENCIES; TRANSFER OF THEIR FUNCTIONS TO THE DEPARTMENT OF CORRECTIONS AND INSTITUTIONS. All Departments, boards, bureaus, commissions, agencies and offices of the State exercising or authorized to exercise any of the functions or duties conferred upon the State Department by this Act are hereby abolished, and all of their functions and duties are hereby transferred to and conferred upon the State Department. Without limiting the generality of the foregoing, the State Board of Administration and all offices and officers thereof are hereby abolished and all of its powers, functions and duties relating to the administration, operation, supervision and control of the penal and correctional institutions of the State are hereby transferred to and conferred upon the State Department. The powers, functions and duties of the State Auditor with respect to the prescribing of the route of travel for prisoners are hereby transferred to and conferred upon the State Department. All the powers, functions and duties of the former State Prison Inspector, which office was abolished by Act No. 61, Approved Feb. 9, 1935, and which Act granted authority to the Governor to provide for the discharge of the duties of said office by some other existing agency of the State, are hereby transferred to and conferred upon the State Department.

Section 5. LIMITATIONS ON TRANSFER OF FUNCTIONS AND DUTIES. All powers, functions and duties of the Boards and Officers governing or controlling the Alabama Insane Hospitals, the Partlow State School, the Alabama Boys Industrial School, the State Training School for Girls, the Reform School for Juvenile Negro Lawbreakers, the Alabama Institute

for the Deaf and Blind, the State and County Boards of Health and Health Officers, the Department of Industrial Relations, Juvenile Courts and Courts of Domestic Relations, the State, County and City Boards of Education, and the State and County Boards and Departments of Public Welfare, shall remain as before the enactment of this Act, and no provision of this Act shall cause any transfer to the State Department of any of the functions, duties, responsibilities or services now authorized by law to be performed by any of the foregoing. The State Department shall, however, be charged with the duty and responsibility of cooperating with all the boards, agencies and institutions referred to in this section in the performance of any of the functions and duties delegated to them by law. The State Department shall be specifically charged with the duty and responsibility of cooperating with the State Department of Public Welfare in the discharge of its duties with reference to the families or children of prisoners who may be in need of public welfare services or assistance. If any man or woman committed to a prison or penitentiary is, at the time of commitment, the parent of a child or children under 16 years of age, and such child or children need the care and protection of the State, it shall be the responsibility of the State Department when advised of such need to call it to the attention of the State Department of Public Welfare which through its local agency is charged with the responsibility for the care of dependent minor children.

Section 6. THE DIRECTOR OF CORRECTIONS AND INSTITUTIONS. The State Department shall be headed by and shall be under the direction, supervision and control of an officer, who shall be known and designated as the Director of Corrections and Institutions. The Director shall be the advisor of the Governor and the Legislature in matters relating to penal and correctional institutions, pardons and paroles and related matters. He shall be responsible to the Governor for the administration of the State Department. The Director shall be appointed and shall hold office at the pleasure of the Governor. Vacancies for any reason shall be filled in the same manner as original appointments are made. Before entering upon the discharge of his duties, the Director shall take the constitutional oath of office and shall give bond in such penalty as may be fixed by the Governor (but such penalty shall not be less than \$10,000) conditioned upon the faithful discharge of his duties. The premium on such bond shall be paid out of the State Treasury. The annual salary of the Director shall be fixed by the Governor but shall not, in any event, exceed \$5,700.00 per annum. Such salary shall be payable at the same time and in the same manner as the salaries of other State officers.

The Director shall devote his full time to his official duties and shall hold no other lucrative position while serving as such.

Section 7. **POWERS OF THE DIRECTOR OF CORRECTIONS AND INSTITUTIONS AND HOW EXERCISED; RESTRICTIONS THEREON.** All functions and duties of the State Department shall be exercised by the Director, acting by himself or by and through such administrative divisions or such officers or employees as he may designate. The Director shall have all power and authority necessary or convenient to carry out the functions and duties of the State Department. The Director shall have no authority over the management or control of any of the mental hospitals or asylums or juvenile industrial or training schools of the State but shall have the duty of arranging for cooperation between or among the said institutions on matters of mutual concern. In all cases in which the functions and duties of any other State department, board, bureau, commission, agency or office are herein transferred to or conferred upon the State Department, all power and authority heretofore conferred upon any officer or employee of such department, board, bureau, commission, agency or office in connection with such functions and duties are hereby transferred to and conferred upon the Director. In the performance of such functions and duties and in the exercise of such powers and authorities, the Director and all other officers and employees of the State Department shall, however, be subject to all legal restrictions, limitations, conditions and penalties, civil and criminal, with respect to the performance of such functions and duties and the exercise of such powers and authorities. All reports and statements required to be made by any such department, board, bureau, commission, agency or office shall hereafter be made by the State Department.

Section 8. **RULES AND REGULATIONS; PENALTIES FOR VIOLATION THEREOF.** The Director shall have and exercise all rule making powers of any department, board, bureau, commission, agency or office of the State, the functions and duties of which have been transferred to the State Department by this Act. All rules and regulations heretofore made or promulgated by any such department, board, bureau, commission, agency or office shall, however, continue in effect until altered, amended or repealed by the Director; the Director shall have power and authority to establish and promulgate rules and regulations (including amendments and repeals thereof) with respect to the manner of performance of all functions and duties of the State Department, which rules and regulations shall be reasonably calculated to effect the expeditious and efficient performance of such functions and duties and shall not be in conflict with applicable statutes.

Section 9. ADMINISTRATIVE DIVISIONS. The Director, with the approval of the Governor shall have the power to create within the State Department such Divisions as may be necessary for its effective administration. Each division in the State Department shall be headed by and be under the direction, supervision and control of an officer, who shall be designated as the Chief, of such Division. All Chiefs of Divisions shall be appointed by the Director with the approval of the Governor. Before entering upon the discharge of their duties, such Chiefs of Divisions shall take the constitutional oath of office. The salaries of such Chiefs of Divisions shall be fixed by the Director, with the approval of the Governor, and shall be paid in the same manner and at the same time as the salaries of other State officers, but no one of such salaries shall exceed \$3,600 per annum except that the salaries paid two physicians may be not in excess of \$4,500.00. Each such officer shall devote his full time to his official duties and shall hold no other lucrative position while serving as such.

Section 10. TRANSFER OF MONEYS AND APPROPRIATIONS. All moneys and funds of and all appropriations (including those from any special or ear-marked fund or funds) to any department, board, bureau, commission, agency or office of the State, the functions and duties of which are transferred to and conferred upon the State Department by this act, used or to be used in connection with such functions and duties, are hereby transferred and assigned to the State Department to be expended by it in the performance of its functions and duties, but subject to the provisions of any law with respect to the budgeting, control and allotment of appropriations and expenditures.

Section 11. TRANSFER OF RECORDS, EQUIPMENT, ETC. All books, records, accounts, documents, papers, furniture, fixtures, supplies, material, equipment and other personal property and all lands, buildings and other real property possessed or used by any department, board, bureau, commission, agency or office of the State, the functions and duties of which have been transferred to and conferred upon the State Department by this Act, in connection with the performance of such functions and duties, are hereby transferred and assigned to the State Department and shall be delivered upon the request of the Director.

Section 12. EMPLOYEES OF THE DEPARTMENT OF CORRECTIONS AND INSTITUTIONS. The Director shall, with the approval of the Governor, determine the number of employees needed for the efficient and economical performance of the functions and duties of the respective divisions and the salaries to be paid each such employee. All employees heretofore employed by any department, board, bureau, commission, agency or office of the State, the functions and duties of which have been trans-

ferred to and conferred upon the State Department by this Act, in connection with the performance of such functions and duties, the right to appoint or nominate such employees and all appropriations for the payment of such employees, are hereby transferred and assigned to the State Department. The Director shall, however, have the right to discharge any such employee if in his discretion he shall conclude that the services of such employee are not needed or that the efficiency of the Department will be increased by the replacement of such employee.

Section 13. APPLICATION OF THE MERIT SYSTEM ACT. Anything in this Act to the contrary notwithstanding, all employees and officers of the State Department (including the Chiefs of Divisions but not including the Director) shall be subject to the provisions of any law with respect to the method of selection and classification of State employees on a basis of merit.

Section 14. BEGINNING OF OPERATION OF DEPARTMENT OF CORRECTIONS AND INSTITUTIONS. The State Department shall begin the performance of the functions and duties transferred to and conferred upon it by this Act as soon as practicable after the effective date of this Act and after the appointment and qualification of the Director, but each function or duty transferred to and conferred upon the State Department from some other Department, board, bureau, commission, agency or office of the State shall continue to be performed as before the effective date of this Act until the Director shall notify the officer or employee in charge of such department, board, bureau, commission, agency or office or some designated part of such functions or duties, at which time the transfer shall be effective.

Section 15. SEVERABILITY. It is hereby declared to be the legislative intent that, if this Act cannot take effect in its entirety because of the decision of any court holding unconstitutional the inclusion herein of any part, paragraph, word or phrase, the remaining provisions of the Act shall be given full force and effect as completely as if the part held unconstitutional had not been included herein.

Section 16. REPEAL. All laws and parts of laws in conflict with any provision of this Act are, to the extent of such conflict, hereby repealed.

Sec. 16a. There is hereby appropriated out of any funds in the State Treasury, not otherwise appropriated, such amounts as may be necessary to carry out the provisions of this Act and to pay the salaries herein provided for and the expenses incurred hereunder.

Section 17. That the provisions of this Act shall become effective upon its passage and approval by the Governor.

Approved March 1, 1939.

No. 92)

(S. J. R. 37—Poole

SENATE JOINT RESOLUTION

That the Governor is hereby authorized and requested, to direct the State Commissioner of Public Instruction to arrange for the suitable observance of Flag Week in all the public schools, to issue a proclamation calling upon the State officials to display the United States Flag on all State buildings during Flag Week; to invite the people of the State to fly the Flag at their homes and hold special exercises in their communities to inspire National faith.

WHEREAS, The whole world, rent asunder by strife and contention, violence and intolerance, is today in a state of turmoil and uncertainty, marked by a titanic struggle between Democracy and Autocracy, while in this Country anti-American forces are striving to discredit and destroy the ideals and institutions symbolized by the American Flag, and social, political and economic forces are combating one another; and

WHEREAS, Never before in the history of the Nation has there been greater need among our people for the unity, cooperation and tolerance for which our Country's Flag stands; and

WHEREAS, With the Stars and Stripes as its emblem The United States Flag Association, a non-profit, non-partisan and non-sectarian organization incorporated under Federal law and headed by the President of the United States as Honorary President General, is, with the cooperation of various groups, organizations and fields of activity in our National life, conducting a National Patriotic Revival, culminating in Flag Week, June 8th to 14th next, for the two-fold purpose (1) of awakening our people to the dangers threatening our National life, thereby causing them to resolve as never before to uphold and preserve our Country's ideals and institutions, and (2) of promoting National Unity, Patriotic Cooperation and Racial and Religious Tolerance; therefore,

BE IT RESOLVED by the Senate and the House of Representatives of the State of Alabama concurring that they heartily indorse the plan for a great National Patriotic Revival, and that the Governor is hereby authorized and requested, first, to direct the State Commissioner of Public Instruction to arrange for the suitable observance of Flag Week in all the public schools, and, secondly, to issue a proclamation calling upon the State officials to display the United States Flag on all State buildings during Flag Week, and inviting the people of the State to fly the Flag at their homes and other suitable places as well as on their cars, and that in every community they hold special exercises at which means shall be taken to give significant expression to our thoughtful love of America, our pride in its glorious history, our faith in its destiny, our devotion to its ideals and institutions and our determination to uphold and preserve them now and forever.

Approved March 6, 1939.

No. 94)

(H. 165—Flowers

AN ACT

To Permit the Reduction or Abatement of Public Improvement Assessments In Certain Cases and to Validate Proceedings Heretofore Taken Relating Thereto In All Towns and Cities Having A Population of Less Than Twenty Thousand People According To the Last Federal Census Or any Such Census Which May Hereafter Be Taken.

Be it Enacted by the Legislature of Alabama:

Section 1. That the governing body of any town or city having a population of less than twenty thousand people according to the last Federal census or which shall hereafter have such a population according to any such census that may be taken hereafter shall have power to reduce or abate any assessments heretofore or hereafter made for public improvements in such town or city in cases where such assessments have been levied or attempted to be levied against property owned by the State of Alabama or by such town or city or by the county in which such town or city is located or owned by any church, hospital or other charitable organization whether or not such assessment shall have been made final and the time to appeal therefrom expired, provided, however, that it is not intended hereby to authorize such governing body in any case to set aside or abate all assessments made for any public improvement.

Section 2. That all proceedings heretofore taken with respect to the reduction or abatement of assessments by any town or city of the class described in Section 1 hereof be and the same hereby are ratified.

Section 3. That the powers herein given are cumulative and shall not be construed as depriving towns or cities of the class described in Section 1 hereof of any powers now provided by law in connection with such matters.

Section 4. This law shall become effective upon its approval by the Governor of Alabama.

Approved March 6, 1939.

No. 103)

(H. 260—Gewin

AN ACT

To amend Sections 4, 5, 7, and 8 of an Act approved August 27, 1935, entitled "An Act to create a State Department of Public Welfare; to provide for a State Board of Public Welfare for the government thereof; to prescribe its powers and duties; to provide for the appointment of a Commissioner as Executive Officer and for the appointment of other employees, their compensation and the maintenance and other expenses of the State Department of Public Welfare; to transfer to the State Department of Public Welfare all the powers, duties, and obligations now vested in and relating to the State Child Welfare Department, except the administration of the State Child Labor Law, which may now or hereafter be transferred to the Department of Labor in the event such department

be established; to transfer to the State Department of Public Welfare all those duties having to do primarily with the determination of need and authorization of relief now performed by the Alabama Relief Administration; to empower the State Department of Public Welfare to administer all public assistance funds, Child Welfare funds, and all funds appropriated by the Legislature to the State Department of Public Welfare for the purposes for which they are appropriated; to authorize the State Department of Public Welfare to act as agent for and to cooperate with any Federal or State Agency or enactment now or hereafter provided by law for the purpose of rendering public assistance and services through any of the bureaus herein created; to authorize the State Board of Public Welfare to create such other bureaus and divisions within the purview of this Act as may be necessary for its administration and to prescribe rules and regulations governing the same; to authorize the State Board of Public Welfare to prescribe adequate standards of education, training and experience, which must have been attained by persons selected for the positions to be filled in each of the bureaus and divisions of the State Department of Public Welfare and in the several county departments of public welfare; to authorize the State Board of Public Welfare to issue certificates to such persons as may meet the qualifications prescribed; to provide a mental hygiene program of non-institutional care; to authorize the State Department of Public Welfare to collect statistics and other information relative to public welfare and to make surveys and in other ways to ascertain the facts and conditions which cause or contribute to the need for public assistance, family welfare, child welfare, and other welfare activities; to create County Departments of public welfare and to provide for County boards of public welfare for the government thereof; to prescribe their powers and duties; to transfer to the county boards of public welfare and the county departments of public welfare all rights, duties, powers and obligations of the present county child welfare boards; to authorize the county departments of public welfare, operating under the county boards of public welfare, to act as agents for and to cooperate with any Federal, State or County agency or enactment now or hereafter provided by law for the purpose of rendering public assistance, family welfare services and child welfare services; and to repeal all laws in conflict herewith."

Be it Enacted by the Legislature of Alabama:

Section 1. That Section 4 of an Act approved August 27, 1935, entitled "An Act to create a State Department of Public Welfare; to provide for a State Board of Public Welfare for the government thereof; to prescribe its powers and duties; to provide for the appointment of a Commissioner as Executive Officer and for the appointment of other employees, their compensation and the maintenance and other expenses of the State Department of Public Welfare; to transfer to the State Department of Public Welfare all the powers, duties, and obligations now vested in and relating to the State Child Welfare Department, except the administration of the State Child Labor Law, which may now or hereafter be transferred to the Department of Labor in the event such department be established; to transfer to the State Department of Public Welfare all those duties having to do primarily with the determination of need and authorization of relief now performed by the Alabama Relief Administration; to empower the State Department of Public Welfare to administer all public assistance funds, Child Welfare funds, and all

funds appropriated by the Legislature to the State Department of Public Welfare for the purposes for which they are appropriated; to authorize the State Department of Public Welfare to act as agent for and to cooperate with any Federal or State Agency or enactment now or hereafter provided by law for the purpose of rendering public assistance and services through any of the bureaus herein created; to authorize the State Board of Public Welfare to create such other bureaus and divisions within the purview of this Act as may be necessary for its administration and to prescribe rules and regulations governing the same; to authorize the State Board of Public Welfare to prescribe adequate standards of education, training and experience, which must have been attained by persons selected for the positions to be filled in each of the bureaus and divisions of the State Department of Public Welfare and in the several county departments of public welfare; to authorize the State Board of Public Welfare to issue certificates to such persons as may meet the qualifications prescribed; to provide a mental hygiene program of non-institutional care; to authorize the State Department of Public Welfare to collect statistics and other information relative to public welfare and to make surveys and in other ways to ascertain the facts and conditions which cause or contribute to the need for public assistance, family welfare, child welfare, and other welfare activities; to create County Departments of public welfare and to provide for County boards of public welfare for the government thereof; to prescribe their powers and duties; to transfer to the county boards of public welfare and the county departments of public welfare all rights, duties, powers and obligations of the present county child welfare boards; to authorize the county departments of public welfare, operating under the county boards of public welfare, to act as agents for and to cooperate with any Federal, State or County agency or enactment now or hereafter provided by law for the purpose of rendering public assistance, family welfare services and child welfare services; and to repeal all laws in conflict herewith," be and the same is hereby amended so as to read as follows: Section 4. It shall be the duty of the State Board to appoint a Commissioner who shall serve at its pleasure. He shall be appointed on the basis of education, ability, and experience in the administration of public welfare and without regard to residence or political affiliation. The Commissioner shall be the executive and administrative officer of the State Department. His salary shall be fixed by the Governor but not to exceed fifty-seven hundred dollars per annum. The State Board, in conference with the Commissioner, shall be responsible for the adoption of policies, rules and regulations for its government and for the government of the State Department; all administrative and executive duties and responsibilities of the State Department shall be performed by the Commissioner, subject to the authority of the State Board. The State Board shall have the power and it shall be its duty to fix minimum standards of service and personnel, and to set salary schedules, based upon education, training, previous experience and general efficiency which must have been attained by

persons selected for positions to be filled in the State department and the county departments of public welfare hereinafter created. Nothing in this Act, however, shall limit or take from any State Personnel Department created by law, its functions, powers and duties with reference to employees of State Departments.

Section 2. That Section 5 of the said Act be and the same is hereby amended so as to read as follows: Section 5. The State Board shall have the authority to make grants-in-aid to county departments of public welfare for public welfare purposes and to require as a condition for receiving such grants-in-aid that the county department shall bear a fixed proportion of the total expenditures for which the grant is made available. These proportions shall be determined by the amount of funds available to the State Department and the resources and needs of the several local governments. The method of determining the resources and needs of the several local governments shall be uniform throughout the state.

Section 3. That Section 7 of the said Act be and the same is hereby amended so as to read as follows: Section 7. The Commissioner shall interpret policies, rules and regulations formulated by the State Board and shall have power, subject to the approval of the State Board, to create within the State Department such bureaus as are necessary for the effective operation of the public welfare program, and to allocate and reallocate functions among bureaus and departmental agencies.

Section 4. That Section 8 of the said Act be and the same is hereby amended so as to read as follows: The aim of the State Department shall be the promotion of a unified development of welfare activities and agencies of the State and of the local governments so that each agency and each governmental institution shall function as an integral part of a general system. In order to carry out effectively these aims it shall be the duty and responsibility of the State Department to: (1) Administer or supervise all forms of public assistance including general home relief, outdoor and indoor care for persons in need of assistance, and old age pensions, also including those duties that have to do primarily with the determination of need and authorization of relief. (2) Exercise all the powers, duties and responsibilities previously vested by law in the State Child Welfare Department. Whenever reference to the State Child Welfare Department is made in any law of the State such reference shall be deemed to apply to the State Department of Public Welfare. (3) Provide services to county or municipal governments including the organization and supervision of counties for the effective carrying out of welfare functions, the compilation of statistics, and other information relative to public welfare and to make surveys and in other ways to ascertain the facts which cause or contribute to the need for public assistance, family welfare, child welfare, and other welfare activities. (4) Issue certificates to such applicants as may meet the qualifications prescribed by the State Board. (5) Assist other departments, agencies and institutions of the State and Federal government, when so

requested, by performing services in conformity with the purposes of the State Department. (6) Act as the agent of the Federal Government in welfare matters of mutual concern, and in the administration of any Federal funds granted to the State to aid in the furtherance of any of the functions of the State Department, and be empowered to meet such Federal standards as may be established for the administration of such funds. (7) Designate County Departments as its agents under its rules and regulations to perform any of the State Department's functions. (8) Administer such welfare functions as may hereafter be vested in it by law. (9) Provide a mental hygiene program of non-institutional care in the interest of preventive work and general mental hygiene activities. (10) Establish and enforce reasonable rules and regulations governing the custody, use and preservation of the records, papers, files, and communications of the State and County Departments. The use of such records, papers, files, and communications by any other agency or department of government shall be limited to the purposes for which they are furnished and by the provisions of the law under which they may be furnished. All case records of recipients of assistance shall be considered confidential and not public writings and shall not be subject to public use or inspection. (11) Cooperate with the State Department of Corrections and Institutions or with any pardon and parole authority of the State of Alabama by making necessary investigations with reference to families or dependents of persons committed to State penal institutions. In the discharge of its responsibility with reference to dependent, neglected or delinquent minor children whose parent or parents may be inmates of any prison or jail, the State Department of Public Welfare shall cooperate and advise with the State Department of Corrections and Institutions and with the officials of the courts committing said parent or parents to a prison or jail to the end that as full protection as possible may be afforded the families or children of said prisoners. Provided, however, that no power herein conferred shall be so exercised as to impair or infringe the powers, authorities, and functions of the Boards and Officers governing or controlling the Alabama Insane Hospitals, Partlow State School, Alabama Boys Industrial School, State Training School for Girls, Alabama Institute for Deaf and Blind, State Health Department, Juvenile and Courts of Domestic Relations.

Section 5. That this Act shall become effective immediately upon approval by the Governor.

Approved March 6, 1939.

No. 105)

(H. J. R. 25—Hodo

HOUSE JOINT RESOLUTION

REQUESTING the Alabama Representatives in the National Congress to support financial legislation to provide equal educational opportunities for Alabama children and to reserve to the states and local subdivisions the administration of schools.

WHEREAS, the inadequacy of the financial support of public education in Alabama is generally recognized and admitted, and

WHEREAS, such inadequacy is established by teachers' salaries, school terms and class-room facilities that are far below the national averages, and

WHEREAS, the ratio of children of school age to adult population in Alabama is among the highest in the country, while her per capita wealth and income are among the lowest, and

WHEREAS, Alabama is now spending a high percentage of its available revenue for educational purposes, being recognized as a national leader in her effort to provide adequate educational opportunities for her youth, be it, therefore

RESOLVED, by the House of Representatives of the Legislature of Alabama, the Senate concurring, that it hereby request the Alabama Representatives in the National Congress to support financial legislation that will provide educational opportunities for Alabama children more nearly equal to those provided children in wealthier states, maintain local initiative and responsibility in the conduct of education and to reserve explicitly to the states and the local subdivisions the administration of schools.

BE IT FURTHER RESOLVED, that a copy of this resolution be sent to each member of the Congress from Alabama.

Approved March 6, 1939.

No. 106)

H. 7—Allen and McCord

AN ACT

To establish in all Class "D" Cities of the State of Alabama as the same are defined and designated by General Acts of Alabama of 1931 page 174 et seq., Approved March 6, 1931, and any amendments thereto heretofore or hereafter enacted, a Policemen and Firemen's Retirement Fund and to provide for such fund, its sources, management, and administration; to provide for a Board of Trustees for such fund, their duties, power, and authority; to provide for the retirement and/or reinstatement of active or retired members of such departments and payment of benefits provided for hereunder and payment of benefits to widows, orphans, and widowed mothers of such members; to prescribe duties of the city attorney; to provide for payment by said Board of Trustees of expenses; to provide for appeals from rulings of the Board of Trustees; to provide that unconstitutionality of any section or provision of this Act shall not affect the validity of the remainder of this Act.

Be it Enacted by the Legislature of Alabama:

Section 1. That in all Class "D" cities of the State of Alabama as the same are defined and designated by General Acts of Alabama of 1931 page 174 et seq. approved March 6, 1931, and any amendments thereto heretofore or hereafter enacted, there is hereby created in connection with the regularly organized and paid police

department and fire department of such cities a "Board of Trustees of the Policemen and Firemen's Retirement Fund", by which name the said board shall be known and called, to be composed as hereinafter provided and to be selected as hereinafter provided and directed; and in all such cities there is hereby created a Policemen and Firemen's Retirement Fund, for the benefit of the persons hereinafter named, to be derived and raised in the manner hereinafter provided.

Section 2. That the said Board of Trustees of the Policemen and Firemen's Retirement Fund shall be composed of three members, consisting of the Commissioner, Alderman or other member of the governing body of such cities by whatever named called who has supervision over the police and fire departments of such cities, who shall be chairman of such Board of Trustees; the chief or other head of such police department and the chief or other head of such fire department of such respective cities who shall be associate members of such Board of Trustees, all of whom shall serve without compensation.

Section 3. Said Board of Trustees, with the approval of the governing body of such city, shall have the power and authority to appoint a secretary-treasurer of said Board who shall serve at the pleasure of said Board and who shall receive as compensation for his services not to exceed the sum of (\$25.00) twenty-five dollars per month and to be paid on the first day of each month by warrant drawn in like manner as other warrants on such fund. Said secretary-treasurer of said Board of Trustees is hereby made, and it shall be his duty to be the custodian of all moneys belonging to the Policemen and Firemen's Retirement Fund, and all moneys belonging to such Fund, and all moneys or other property belonging to any similar Fund now being maintained in such cities shall be promptly paid to him. The said secretary-treasurer shall also be custodian of all securities and things of value belonging to such Fund. Said secretary-treasurer shall before taking office, make bond in a sum to be fixed from time to time by resolutions of the governing body of any such city, to be approved by the Chairman of said Board of Trustees in such amount as said Board of Trustees shall require in a Surety Company authorized to do business in Alabama for the faithful performance of the duties imposed upon him under this Act, and for the faithful accounting for all moneys, securities, and things of value which may come into his hands as such treasurer of such Fund, and he shall keep a separate account thereof, which shall at all time show the true condition of such Fund. Upon the resignation or removal from office of such secretary-treasurer he shall surrender and deliver up to his successor all bonds, securities, and all unexpended moneys or other properties which may have come into his hands as treasurer of such Fund. It shall be the duty of the secretary-treasurer of said Board to keep, in a book

provided for that purpose, a full and complete record of all proceedings of the Board of Trustees, and he shall perform such other duties as may be assigned to him by the Board of Trustees.

Section 4. That the said Board of Trustees of the Policemen and Firemen's Retirement Fund is hereby declared to be the trustee of said Policemen and Firemen's Retirement Fund, and shall have the exclusive management and control thereof, and all matters legitimately connected therewith; and said Board of Trustees shall have the power to adopt and enforce such rules and regulations as may be necessary to enable it to effectively and properly carry into execution the purposes for which it was organized, and to enable it to properly manage and conduct the business and affairs entrusted to it, provided such rules and regulations shall in no wise contravene the provisions of this Act, but shall be in conformity thereto. The Board of Trustees shall hear and decide all applications for pensions or relief under this Act and its decisions shall be final except for an appeal as hereinafter provided. The said Board of Trustees shall meet whenever the Chairman of said Board of Trustees shall call a meeting of the same.

Section 5. That the said Policemen and Firemen's Retirement Fund shall consist of the following, namely: (a) All of the money, securities and things of value belonging to any similar Fund now being maintained in such cities; (b) of all moneys or properties that may be given or donated to said Fund by any person, firm, association or corporation for the uses and purposes for which said Fund is created; and, said Board may take by gift, grant, devise or bequest any money, personal property, real estate or any interest therein or any right of property, for the benefit of said Fund; (c) two percent of the monthly salaries of each member of such police and fire departments, which shall be paid by the City Clerk of such cities to the Secretary-treasury of said Board of Trustees on the first day of each month and said two per cent of such salaries deducted from said salaries paid such members. (d) All reward money paid to any member of such police and fire departments shall be paid by the recipients of the same into said Retirement Fund promptly upon receipt of the same (e) all civil or criminal witness fees received by any member of the police and fire departments for attendance at or before any court or Grand Jury in the County in which such cities are located, which shall be paid into said Retirement Fund promptly upon the receipt of such fees by the recipients of the same; (f) that each private public utility, qualified to do business under the laws of Alabama selling electricity or electric current in such cities, shall annually and on or before the first day of March of each year beginning March 1, 1939, pay into said Policemen and Firemen's Retirement Fund, A sum equal to three-fourths of one percentum of the gross revenue of such private public utilities, or utility, from the sale of electricity or electric current

within the corporate limits of any such cities during the preceding year; accompanying such tax payment by said private public utilities there shall be filed with the Secretary-treasurer of said Board of Trustees a sworn statement by an officer or authorized agent of such private public utilities showing the amount of the gross revenue received by such utilities from the sale of electricity or electric current in such cities during such preceding year; and any such private public utility violating the provisions of this Act shall forfeit to said Policemen and Firemen's Retirement Fund the sum of \$1,000.00 to be recovered against such private public utility so violating said provisions by suit brought in the name of said Board of Trustees of the Policemen and Firemen's Retirement Fund. Provided, however, that said sum equal to three-fourths of one per centum of gross revenue of private public utilities selling electricity current in such cities from the sale of electricity or electric current therein, required by paragraph (f) of this Section 5 to be paid by such private public utilities into said Policemen and Firemen's Retirement Fund shall be treated and held to be a part of and shall which any municipal corporation may by law impose upon a public utility engaged in the business of selling electricity or electric current.

Section 6. Existing funds and property belonging to or part of any existing similar Fund in any such cities governed by the provisions of this Act, shall be held and administered, used and governed, in the respective cities affected hereby, and transferred and converted into the Policemen and Firemen's Retirement Fund in such cities respectively, as provided herein, immediately upon this law becoming effective.

Section 7. That the Board of Trustees of the Policemen and Firemen's Retirement Fund may, at any time, with the approval of the governing body of any such city, after considering the probable demands upon such fund in the near future, determine what portion of such fund may be safely withdrawn for investment for revenue purposes, and having determined what portion thereof shall be so withdrawn for that purpose, said Board of Trustees shall then determine in what manner such investment shall be made, and all proceedings of said Board of Trustees relating thereto shall be entered at length upon its records. Such investment shall only be by purchase of the interest bearing bonds of the United States of America, or the State of Alabama, or any bonds lawfully issued by such City, or in any bond, stock, security, investment, or deposit which is guaranteed by the United States government or any of its instrumentalities, provided not over twenty-five percent of such fund may be invested in the bonds of any such city. All income from such investments shall be and become a part of said Policemen and Firemen's Retirement Fund. All such securities

shall be deposited with the secretary-treasurer of said Board of Trustees, and shall be subject to the management and control of said Board of Trustees of the Policemen and Firemen's Retirement Fund.

Section 8. That the said Board of Trustees of the Policemen and Firemen's Retirement Fund shall make a monthly report to the Board of Commissioners or other governing body of such City of the condition of such Policemen and Firemen's Retirement Fund; and shall cause an annual report to be published during the first week of January of each year in a newspaper published in such city and of general circulation therein.

Section 9. That all moneys ordered to be paid from such Policemen and Firemen's Retirement Fund shall be paid by the Secretary-treasurer of such Fund only upon warrants signed by the Chairman of such Board of Trustees and countersigned by one associate member of such Board of Trustees and by the Secretary-treasurer; and no warrant shall be drawn on such fund except by order of the said Board of Trustees, which shall be duly and regularly entered in the record of the proceedings of the said Board of Trustees.

Section 10. That no portion of the said Policemen and Firemen's Retirement Fund shall, before or after its order for distribution by the said Board of Trustees to the person or persons entitled thereto under the provisions of this Act, be held, seized, taken, subjected to, detained, or levied upon, by virtue of any attachment, garnishment, execution, injunction, writ, order, decree, or any other process whatsoever, issued out of or by any court of this State, for the payment or satisfaction, in whole or in part, of any debt, damage, demand, claim, judgment or decree, against any beneficiary of such fund; but shall be exempt therefrom that said fund shall be sacredly kept, held and distributed for the purposes named in this Act, and for no other purpose whatsoever.

Section 11. That if at any time there shall not be sufficient money in such Policemen and Firemen's Retirement Fund to pay each person entitled to the benefit thereof the full amount per month as herein provided, then an equal percentage of such monthly payment or payments shall be made to each beneficiary until the said Fund shall be replenished to warrant the payment in full to each of the said beneficiaries.

Section 12. That any member of such fire or police departments who has been in continuous service thereof for as long as thirty years or has reached the age of sixty and has been in continuous service thereof for as long as twenty years, upon making written application to the Board of Trustees therefor, shall without medical examination or disability, be retired from service in such department; and upon such retirement, the said Board of Trustees shall direct the payment to such retired member, monthly, from such

fund, the amount hereinafter provided for his particular position, office, salary, or class of work.

Section 13. That said Board of Trustees shall have the power and authority and it is hereby made mandatory that it shall retire from service in the police or fire departments any member thereof upon attaining the age of sixty-five years without regard to the length of service of such member; and upon such retirement, the said Board of Trustees shall direct the payment to such retired member, monthly, from such fund, the amount hereinafter provided for his particular position, office, salary, or class of work. Provided that the mandatory feature of this section shall not, for two years from the effective date of this Act, apply to the present members of the police and fire departments.

Section 14. That if any member of such police or fire department become or be found to be physically or mentally permanently disabled for service in such police or fire department so as to render his retirement from such service necessary, said Board of Trustees shall retire such disabled member from service in such department and upon such retirement, said Board of Trustees shall order the payment to such disabled member, monthly, from such fund, the amount hereinafter provided for his particular position, office, salary, or class of work.

Section 15. That all retirement pay provided for in this Act is and shall be fixed as stated in the following table of pensions, unless the pay is otherwise provided in this Act, namely: All firemen and patrolmen of a class up to and including those of the first class shall upon retirement as provided herein, receive sixty dollars per month each. All higher salaried members, upon retirement as provided herein, shall receive sixty dollars per month each plus 20 per cent of the amount of the difference between their respective salaries and the salary of a first class fireman or patrolman. Provided that no pensioner shall receive more than seventy-five dollars per month.

Section 16. That after any member of such police or fire department shall have retired upon pension by reason of disability, the said Board of Trustees shall have the right, at any time, to cause such retired member to be brought before it and examined by the City physician or other competent physicians or surgeons, to be selected by it, and also to examine other witnesses for the purpose of discovering whether such disability yet continues, and whether such retired member should be continued on the pension roll, but such retired member shall remain upon the pension roll until re-instated in the active service of such police or fire department. Such retired member shall be entitled to notice, and to be present at the hearing of any such evidence, shall be permitted to propound any questions pertinent or relevant to such matter, and shall also have the right to introduce upon his own behalf any com-

petent evidence he may see fit. All witnesses so produced shall be examined under oath; and any member of such Board of Trustees is hereby authorized and empowered to administer such oath to such witnesses.

Section 17. That if any active member of such police or fire department shall die from any cause whatever leaving a widow, said Board shall direct the payment from said Fund to said widow the sum of \$300.00. Should such deceased member leave no widow but a minor child or children, said Board shall direct the payment from said Fund to the legal guardian of such minor child or children the sum of \$300.00 for the use and benefit of such minor child or children. Should such deceased member leave no widow or minor child or children, but a widowed mother, dependent upon him for support, the said Board of Trustees shall direct the payment to said widowed mother of such deceased member the sum of \$300.00.

Section 18. That if any retired member of such police or fire department shall die from any cause whatever, leaving a surviving widow, said Board shall direct the continuance, for two months from the date of such death, of the monthly pension of such deceased retired member, such pension checks for such two months to be paid to such widow of such deceased retired member. Should such deceased retired member leave no widow but a minor child or children, said Board shall direct the continuance, for two months from the date of such death, of the monthly pension of such deceased retired member, such pension checks for such two months to be paid to the legal guardian of such minor child or children for their use and benefit. Should such deceased retired member leave no widow or minor child or children surviving him, but a widowed mother, dependent upon him for support, the said Board shall direct the continuance, for two months from the date of such death, of the monthly pension of such deceased retired member, such pension checks for such two months to be paid to such widowed mother of such deceased retired member.

Section 19. That when the widow, or children, or widowed mother of an active or retired member of the police or fire departments shall be entitled to benefits under this Act, such widow, or children, or widowed mother shall make or cause to be made an application to the Board of Trustees through the Secretary-treasurer of such Board which shall show, in the case of the widow, proof of the marriage of the deceased to the claimant, by marriage certificate or other competent evidence; and proof of the widowhood of the mother of such deceased member, and her dependency for support upon him, shall be shown by affidavits of such widowed mother or disinterested persons; and the ages of such children shall be shown by birth certificate or other competent evidence. All such applications and proofs shall be kept and retained in the custody of the said Board of Trustees.

Section 20. That if any member of the police and fire departments is discharged from or for any reason leaves the employment of such police or fire departments before he becomes entitled to any of the benefits provided for in this Act, he shall forfeit all right to such benefits and to any moneys that may have been paid into said Fund by or for him.

Section 21. That to be entitled to benefits under this Act a member of the police or fire department or the widow, child, or widowed mother of such member shall be required to be a bona fide resident of the County in which such cities are located and upon such person ceasing to be such bona fide resident of such County all benefits to him shall cease.

Section 22. That there shall be kept by the Secretary-treasurer of the Board of Trustees a book to be known as the List of Retired Policemen and Firemen. Such books shall also give a full and complete history and record of the action of the said Board of Trustees in retiring any and all persons under this Act, showing the names, date of entering the service of such fire department, date of retirement, and the reason for such retirement, if any.

Section 23. That it shall be the duty of the City Attorney of such City to give advice to the said Board of Trustees in all matters pertaining to the duties of the said Board of Trustees and the management of such fund, whenever requested to do so, and he shall represent and defend the said Board of Trustees as its attorney in all suits and actions at law or in equity that may be brought against it, and in all suits and actions in its behalf that may be required or determined upon by said Board of Trustees. Such City Attorney shall serve as such attorney of the Board of Trustees without compensation additional to the salary paid him as such City Attorney.

Section 24. That said Board of Trustees shall be authorized to pay out of such fund all reasonable and necessary expenses including costs of bond herein provided for that may be incurred by it in and about the performance of its duties under this Act and in and about the management and administration of such fund; provided that in no event shall the members of said Board of Trustees receive any salary or compensation for their services out of said Fund.

Section 25. Within ten (10) days after any final decision of the Board of Trustees, any party including the governing body of such city feeling aggrieved at the decision of the Board of Trustees may appeal from any such decision to the Circuit Court of the county in which such city is located and such appeal shall be heard by a Judge sitting without a jury. Upon the filing of any such appeal, notice thereof shall be served upon any member of the Board of Trustees by the appellant. Such appeal shall be heard by the court at the earliest possible date, and it shall not be necessary on any such appeal to enter exceptions to the rulings of the Board of Trus-

tees and no bond shall be required for such an appeal and such an appeal shall be effected by filing a notice and request therefor by the appellant with the clerk of said court. An appeal may be taken from any decision of such court to the Court of Appeals of Alabama or the Supreme Court of Alabama as now provided by law.

Section 26. That if any section or provision of this Act shall be held or declared to be unconstitutional or void, it shall not affect or destroy the validity or constitutionality of any other section or provision of this Act which is not, of itself, void or unconstitutional. And every section and part thereof in this Act shall apply to every City as indicated and provided herein—words written in the singular number to be construed so that same shall so apply and govern.

Section 27. That this Act shall take effect from and after its approval by the Governor.

Section 28. That all laws and parts of laws in conflict with the provisions of this Act be and the same are hereby repealed.

Approved March 3rd, 1939.

No. 107)

(H. 300—Jones

AN ACT

To amend the title and the body of an Act of the Legislature of Alabama entitled "An Act to provide for the fixing of salaries in certain executive departments of the State by authorizing the Governor to fix the salaries of the officers and employes of the Governor's office, including the Governor's Legal Advisor, the Director, Commissioner or Chief executive officer of the Banking Department, the State Highway Commission, the State Tax Commission, the State Board of Administration and associate member thereof, the Public Welfare Department, the Unemployment Compensation Commission, the Bureau of Insurance, the Alabama Highway Patrol, the Alcoholic Beverage Control Board, the Department of Labor, the State Docks Commission, the Department of Military and Naval Affairs, the Chief Mine Inspector, the State Forestry Commission, the Alabama Real Estate Commission, the Comptroller, the Peoples Public Service Attorney, and the Capitol Custodian, or the Director, Commissioner, or Chief Executive Officer of such other executive departments of the State as may hereafter be created in addition to or in lieu of the foregoing named departments; and to authorize the Director, Commissioner, or Chief Executive Officer of the foregoing departments or such departments as may hereafter be created in addition to or in lieu of said departments, with the approval of the Governor, to fix the salaries of all subordinate officers and employees in their respective departments, provided that no salary shall be in excess of Five Thousand Seven Hundred Dollars (\$5,700 per annum; and to repeal all laws in conflict with the provisions of this Act," approved February 16, 1939, so as to read as follows:

Be it Enacted by the Legislature of Alabama:

Section 1. That the title and the body of an Act entitled "An Act to provide for the fixing of salaries in certain executive departments of

the State by authorizing the Governor to fix the salaries of the officers and employees of the Governor's office, including the Governor's Legal Advisor, the Director, Commissioner or Chief executive officer of the Banking Department, the State Highway Commission, the State Tax Commission, the State Board of Administration and associate member thereof, the Public Welfare Department, the Unemployment Compensation Commission, the Bureau of Insurance, the Alabama Highway Patrol, the Alcoholic Beverage Control Board, the Department of Labor, the State Docks Commission, the Department of Military and Naval Affairs, the Chief Mine Inspector, the State Forestry Commission, the Alabama Real Estate Commission, the Comptroller, the Peoples Public Service Attorney, and the Capitol Custodian, or the Director, Commissioner, or Chief Executive Officer of such other executive departments of the State as may hereafter be created in addition to or in lieu of the foregoing named departments; and to authorize the Director, Commissioner, or Chief Executive Officer of the foregoing departments or such departments as may hereafter be created in addition to or in lieu of said departments, with the approval of the Governor, to fix the salaries of all subordinate officers and employees in their respective departments, provided that no salary shall be in excess of Five Thousand Seven Hundred Dollars (\$5,700) per annum; and to repeal all laws in conflict with the provisions of this Act," be and the same are hereby amended so as to read as follows: "An Act to provide for the fixing of salaries in certain executive departments of the State by authorizing the Governor to fix the salaries of the officers and employees of the Governor's office, including the Governor's Legal Advisor, the Director of the Department of Commerce, the State Highway Director, the Commissioner of Revenue, the State Board of Administration, the Commissioner of Public Welfare, the Unemployment Compensation Commission, the Alabama Highway Patrol, the Alcoholic Beverage Control Board, the Department of Labor, the Department of State Docks and Terminals, the Department of Military and Naval Affairs, the Chief Mine Inspector, the State Forestry Commission, the Alabama Real Estate Commission, the Comptroller, the Peoples Public Service Attorney, and the Capitol Custodian; and to authorize the Director, Commissioner, or Chief Executive Officer of the foregoing departments, with the approval of the Governor, to fix the salaries of all subordinate officers and employees in their respective departments, provided that no salary shall be in excess of Five Thousand Seven Hundred Dollars (\$5,700) per annum; to provide for the payment of the salaries as herein fixed; to provide the several funds in the State Treasury from which the same may be paid; and to repeal all laws and parts of laws in conflict with the provisions of this Act.

"Be it Enacted by the Legislature of Alabama:

"Section 1. That the Governor is hereby authorized and empowered to fix the salaries of the officers and employees in the Governor's

office, including the Governor's Legal Advisor, the Director of the Department of Commerce, the State Highway Director, the Commissioner of Revenue, the State Board of Administration, the Commissioner of Public Welfare, the Unemployment Compensation Commission, the Alabama Highway Patrol, the Alcoholic Beverage Control Board, the Department of Labor, the Department of State Docks and Terminals, the Department of Military and Naval Affairs, the Chief Mine Inspector, the State Forestry Commission, the Alabama Real Estate Commission, the Comptroller, the Peoples Public Service Attorney, and the Capitol Custodian; and the Director, Commissioner, or Chief Executive Officer of the foregoing departments is authorized, with the approval of the Governor, to fix the salaries of all subordinate officers and employees in their respective departments, provided that no salary shall be in excess of Five Thousand Seven Hundred Dollars (\$5,700) per annum.

"Section 1 (a). There is hereby appropriated annually out of the General Fund in the State Treasury a sum of money sufficient to pay the salaries of the officers and employees of the departments specified in this Act, whose salaries are now payable in whole or in part out of the General Fund.

"Section 1 (b). There is hereby further appropriated annually out of the several special funds in the State Treasury from which the salaries of any of the officers and employees of the departments specified in this Act are now payable in whole or in part sums of money sufficient to pay the salaries of the officers and employees of the departments specified in this Act whose salaries are now payable in whole or in part out of said special funds respectively.

"Section 2. If any paragraph, sentence, provision or word of this Act be held invalid by any Court or competent jurisdiction such holding shall not affect any other paragraph, sentence, provisions or word of this Act, the Legislature hereby declaring that the provisions of this Act are severable and that it would have enacted the same without such invalid paragraph, sentence, provision or word.

"Section 3. All laws or parts of laws, general, special, private or local providing otherwise are hereby repealed."

Section 2. This Act shall become effective upon its passage and approval by the Governor or its otherwise becoming a law.

Approved March 3, 1939.

No. 109)

(H. 291—Diffly

AN ACT

To Repeal An Act Entitled An Act To Amend An Act Entitled An Act, To Fix The Salary Of The Judge Of Probate In All Counties In This State, Which May Hereafter Have A Population Of Seventy-Five Thousand People And Less Than One Hundred Thousand People According To The Last Federal Census Or Any Such Census Which May Hereafter Be Taken And To Regulate The Payment Of Same: To Provide For The Se-

lection Of Clerical Help And Other Assistance To Said Judges Of Probate And The Manner Of Fixing Their Compensation And Paying The Same, And To Provide Rules And Regulations For The Payment And Conduct Of Such Judge Of Probate, And To Provide For An Election Clerk To Be Appointed By Said Judge Of Probate, Who Shall Also Be Ex-Officio Clerk Of The Board Of Registrars In Said Counties, Define His Duties And Fix His Compensation: And To Require All Of Said Judges Of Probate To Pay Into The County Treasury Of Said Counties All Costs, Charges And Courts, Fees And Commissions Authorized By Law To Be Collected By Said Judges Of Probate As Other Moneys Belonging To Said Counties Are Paid.

Be it Enacted by the Legislature of Alabama:

That an Act entitled an Act to amend an Act entitled an Act to fix the salary of the Judge of Probate in all Counties in this State, which may hereafter have a population of seventy-five thousand people and less than one hundred thousand people according to the last Federal Census or any such census which may hereafter be taken and to regulate the payment of same; to provide for the selection of clerical help and other assistance to said Judges of Probate and the manner of fixing their compensation and paying the same, and to provide rules and regulations for the payment and conduct of such Judges of Probate, and to provide for an election clerk to be appointed by said Judges of Probate, who shall also be ex-officio clerk of the Board of Registrars in said counties, define his duties and fix his compensation; and to require all of said Judges of Probate to pay into the County Treasury of said counties all costs, charges and courts, fees and commissions authorized to law to be collected by said Judges of Probate as other moneys belonging to said counties are paid, be and the same is hereby repealed.

Section 2. This Act shall be effective immediately upon its approval of the Governor or upon its otherwise becoming a law. Approved April 2, 1936.

Approved March 3, 1939.

No. 110)

(H. J. R. 33—Toomer

HOUSE JOINT RESOLUTION

REQUESTING the United States Senators and members of Congress from Alabama to initiate and cooperate in supporting legislation to restore cotton to its former economic importance in world commerce.

WHEREAS, by reason of legislation creating trade barriers to the cotton trade, discriminating freight rates, the tariff, and other legislation, and by reason of world economic conditions and competition from cotton growers in foreign countries with living standards below that of this country the cotton farmers in the Southern States have been reduced to a tragic financial condition,

their export markets have been almost lost, they are subject to competition which they are handicapped in meeting, and the growing of cotton made economically impossible under existing conditions; and

WHEREAS, unless concerted action is immediately taken by the Senators and Members of Congress from the Cotton states, looking to the relief of the cotton farmers from the handicaps under which such conditions have come about, the growing of cotton may soon become a thing of the past in this country, and the welfare and income of large sections of the United States seriously affected.

BE IT RESOLVED by the House of Representatives of the Legislature of Alabama, the Senate concurring, That the attention of the Congress of the United States is respectfully directed to the fact that cotton is the leading product in America's Commerce and International Trade, and that the cotton farmer represents the world's largest primary wealth producing group and that it is of paramount importance to the producers of this commodity, as well as to the continued life of world trade on the part of the United States, that this interest be adequately rehabilitated and fostered. To that end, the Senators and Members of Congress from the State of Alabama are respectfully urged to take immediate steps to meet with the Senators and Representatives from all other cotton states for the purpose of securing concerted action by the Congress for the relief of the cotton farmers and of the industry from the handicaps and barriers under which they and it now suffer in the marketing of cotton, domestic and foreign, and it is respectfully suggested that among the things they are called to advocate are the following: (1) Legislation for the removal of statutory trade barriers, as far as possible, against our cotton trade, such as the modification or repeal of the Johnson Act, the enactment of legislation bringing about the equalization of transportation rates, the revision of the tariff to relieve discrimination against the cotton farmers, and other legislation; (2) The sale to and use by the government for the manufacture of equipments and munitions of war of 6,000,000 bales of surplus cotton; (3) Selling to the Post Office Department 1,000,000 bales of cotton now being carried by the government under loans, this cotton to be used to be manufactured into twines and other materials for use of the United States mail service, the Post Office Department to place this cotton through bids to be manufactured for their uses; (4) To allocate or reapportion from the cotton being carried by the government under the loans, 1,000,000 bales to be manufactured into cotton bagging to be distributed to cotton farmers as an additional subsidy without charge for baling their 1939 cotton and cotton of subsequent years; (5) The retention of soil conservation payments as now made, pending the working out of a definite permanent plan

for the future of cotton: (6) The pledging of the government to a definite support of cotton production profitable to the cotton growers; (7) The granting to cotton growers of the privilege of planting other money crops than cotton on surplus lands resulting from a reduction of cotton acreage, and not needed for production of feed and food crops for home consumption, without imposing a penalty against compliance payments, as now done; (8) To create an office of Cotton Commissioner in the United States Department of Agriculture. It should be the Commissioner's duty to develop new uses and markets for cotton and to represent producers of cotton in developing farm programs;

BE IT FURTHER RESOLVED, that the Legislative Bodies of the cotton states be urged to take immediate action to request from their Senators and Members of Congress similar cooperation and support of such actions and measures.

BE IT FURTHER RESOLVED, That the Secretary of the Senate do forthwith transmit copies of this Resolution to the United States Senators and Members of Congress from this State, and to the Legislative bodies of each of the following states, to wit: North Carolina, South Carolina, Alabama, Florida, Louisiana, Mississippi, Arkansas, Oklahoma, Arizona, New Mexico, California, Missouri, Kansas, Texas, and Tennessee.

Adopted by the House of Representatives March 2, 1939.

Concurred in by the Senate March 3, 1939.

No. 112)

(H. 72—Dominick

AN ACT

To create a Department of Finance of the State of Alabama and to provide for its personnel, powers, functions and duties and the performance thereof; to provide for the transfer to the Department of Finance of certain powers, functions and duties, appropriations, books, records, accounts, documents, papers, furniture, fixtures, supplies, material, equipment and other personal property, and employees from all departments and agencies of the State which now have any functions and duties conferred upon the Department of Finance by this Act, including, among others, the Department of Examiners of Accounts, the Division of Departmental and County Audits in the office of the State Comptroller, the State Auditor, the State Department of Public Welfare, the State Treasurer, the Sinking Fund Commission, the State Comptroller, the office of the State Comptroller, the State Board of Administration, the Secretary of State, the Governor, the Secretary to the Governor, and the Public Works Board of Alabama; to abolish the Department of Examiners of Accounts, the Division of Departmental and County Audits in the office of the State Comptroller, the Sinking Fund Commission, the office of the State Comptroller, the Public Works Board of Alabama; to provide for the administration, management, supervision and control and the keeping of the records and accounts relating to the fiscal affairs and the fiscal procedure of the State, the drawing of warrants on the State Treasury, the preparation and execution of the budget, the making of budget

allotments, the preparation of revenue and appropriation bills, the acquisition and distribution of personal property, the providing of printing and binding, the management and servicing of the State Capitol and other buildings and property owned or leased by the State in the City of Montgomery, the insurance of all State property, the providing of postage service, telephone services and certain personal services, the examination and audit of the records and accounts, and the supervision and control of and assistance in connection with the purchases, revenue, taxation, budgets, indebtedness and other obligations and the finances of the counties, municipal corporations, political subdivisions and local public bodies in the State, the making of financial studies and reports and the making of the annual financial report of the State, all by the Department of Finance; and to provide penalties and punishments for the violations of any of the provisions of this act; to repeal sections 1 to 9-A inclusive, of the Budget and financial Control Act of 1932, and other provisions of law in conflict with any provision of the Act to the extent of such conflict.

Be it Enacted by the Legislature of Alabama:

Section 1. **TITLE OF ACT.** This Act shall be known and may be cited as the Department of Finance Act of 1939.

Section 2. **DEFINITIONS.** The words "State and the departments, boards, bureaus, commissions, agencies, offices and institutions thereof," and the words "departments, boards, bureaus, commissions, agencies, offices and institutions of the State" wherever they appear in this Act shall not be construed to include Counties, municipal corporations, political subdivisions, County and City Boards of Education and other local public bodies.

Section 3. **CREATION OF THE DEPARTMENT OF FINANCE.** There is hereby created the Department of Finance of the State of Alabama, which shall be an executive and administrative department in order to enable the Governor to exercise a direct and effective control over the finances of the State and in order to bring together in one department for purposes of economy and efficiency all matters pertaining to the finances of the State and the departments, boards, bureaus, commissions, agencies, offices and institutions thereof and, to the extent herein indicated, over the finances of the counties, municipal corporations, political subdivisions and local public bodies in the State, and to furnish the physical facilities, equipment and supplies and, to the extent herein indicated, the personnel for the operation of the State and such departments, boards, bureaus, commissions, agencies, offices and institutions thereof. The Department of Finance shall have a seal, which shall be affixed to official acts and deeds of the Department of Finance and the Director of Finance by him.

Section 4. **THE DIRECTOR OF FINANCE.** The Department of Finance shall be headed by and shall be under the direction, supervision and control of an officer who shall be known and designated as the Director of Finance. The Director of Finance shall be the chief financial officer of the State and the ad-

visor of the Governor and of the Legislature in financial matters, and he shall at all times be charged with protecting the financial interests of the State. He shall be responsible to the Governor for the administration of the Department of Finance. The Director of Finance shall be appointed and hold office at the pleasure of the Governor. Vacancies for any reason shall be filled in the same manner as original appointments are made. Before entering upon the discharge of his duties, the Director of Finance shall take the constitutional oath of office and shall give bond in such penalty as may be fixed by the Governor (but such penalty shall not be less than \$150,000) conditioned upon the faithful discharge of his duties. The premium on his bond shall be paid out of the State Treasury. The annual salary of the Director of Finance shall be fixed by the Governor but shall not, in any event, exceed \$6,000 per annum. Such salary shall be payable at the same time and in the same manner as the salaries of other State officers. The Director of Finance shall devote his full time to his official duties and shall hold no other lucrative position while serving as Director of Finance.

Section 5. FUNCTIONS AND DUTIES OF THE DEPARTMENT OF FINANCE. The general functions and duties of the Department of Finance shall be as follows: (1) To manage, supervise and control all matters pertaining to the fiscal affairs and fiscal procedure of the State, except such as may by the Constitution or statute be specifically required to be performed by the State Auditor, the State Treasurer or the State Tax Commission or its successor, and to keep all records, accounts and data relating thereto. (2) To prepare and administer the budget, to direct the execution thereof, and to make all budget allotments. (3) To furnish all information for and assist in the preparation of the general revenue bill to be submitted to the Legislature for its information pursuant to section 70 of the Constitution and to prepare all appropriation bills. If and when section 70 of the Constitution shall have been so amended as to permit it, the Department of Finance shall prepare the general revenue bill. (4) To purchase all personal property, except alcoholic beverages (which shall continue to be purchased by the Alcoholic Beverage Control Board) for each department, board, bureau, commission, agency, office and institution of the State. (5) To make and supervise the execution of all contracts and leases for the use or acquisition of any such property. (6) To manage, supervise and control all printing and binding for the State and for each department, board, bureau, commission, agency, office and institution thereof and the distribution of all printed matter and to make and supervise the execution of all contracts with respect thereto, except as may be otherwise required by the Constitution. (7) To manage, supervise, maintain, repair, improve, light, heat and clean the State Capitol

and all other property owned or leased by the State and located in the City of Montgomery. (8) To maintain perpetual inventories of all furniture, fixtures, supplies, materials, equipment and other personal property on hand and of all such non-consumable personal property as may have been or as may be assigned to any department, board, bureau, commission, agency, office or institution of the State or to any officer or employee thereof, to make such periodic examinations of such property as may be necessary and to hold responsible any officer or employee who fails or refuses to account for any such property for which he is chargeable. (9) To manage, supervise and control the insurance of all State Property, wherever located. (10) To operate, manage and administer the State Insurance Fund and the State Surety Insurance Fund. (11) To provide exclusively for the stamping and mailing for each State department, board, bureau, commission, agency and office located and operating in the City of Montgomery. (12) To provide exclusively for all telephone service for each State department, board, bureau, commission, agency and office located and operating in the City of Montgomery. (13) To provide exclusively for all clerical and stenographic services to all State departments, boards, bureaus, commissions, agencies and offices located in the City of Montgomery for part-time or emergency needs. (14) To require the periodic reporting of all purchases of furniture, fixtures, supplies, material, equipment and other personal property, except printing, and all contracts and leases for the use or acquisition thereof by or for counties, the purchase, contract or lease price of which is \$100 or more, and to require information in connection therewith, to prescribe forms and fix the time for submitting such reports, and, when requested by any county, municipal corporation, political sub-division and other local public body (including any board of education) to make such purchases, contracts or leases for it. It shall be the duty of every county to make such report on forms furnished by the Department of Finance, whenever requested so to do, but not more than once every thirty days. (15) To examine and audit the records and accounts of all state and county officers, bureaus, boards, commissions, institutions and departments as now provided by law or which may hereafter be provided by law; and to prepare forms for a uniform system of state and county records and accounts as now provided by law. (16) If and when requested by any municipal corporation, political sub-division or other local public body and if and when it shall have employees available for such purpose, to examine and audit the records and accounts of such municipal corporation, political subdivision or other local public body and the officers thereof. (17) To require each municipal corporation, political subdivision and local public body (except counties and boards of education and County Boards and Departments of Public Welfare) to submit

a certified copy of its annual audit within one month after such audit is completed, and, upon being satisfied that no audit has been made of the books and records of such municipal corporation, political subdivision or local public body for a period of two years, to make an audit or to require that an audit be made. It shall be the duty of each such municipal corporation, political subdivision and local public body to submit a certified copy of its annual audit to the Department of Finance. (18) To require all counties, municipal corporations, political subdivisions and local public bodies (except boards of education and County Boards and Departments of Public Welfare) to submit certified copies of their annual budgets within thirty days after the adoption thereof. It shall be the duty of each such county, municipal corporation, political subdivision and local public body to submit a certified copy of its annual budget within such period. (19) To require each county, municipal corporation, political subdivision and local public body (except boards of education and County Boards and Department of Public Welfare) to submit an annual statement showing its indebtedness and obligations, general or special, payable from any source whatsoever, the interest rate thereon, the provision made for the repayment thereof, including the condition of all sinking funds, and any other facts or data pertinent to its indebtedness and financial condition. It shall be the duty of each such county, municipal corporation, political subdivision and local body to furnish such information not later than the first of November in each year on forms furnished by the Department of Finance. (20) To investigate, whenever it shall deem proper, the ability of any county, municipal corporation, political subdivision or other public body to pay or repay any proposed new general obligation, special assessment, revenue or other bonds, payable from any source whatsoever, including funding and refunding bonds, together with the effect of such proposed issue on the general financial condition of such county, municipal corporation, political subdivision or other public body, and, upon the conclusion of such investigation, to advise such county, municipal corporation, political subdivision or other public body whether in the judgment of the Department of Finance, the issuance of such proposed bonds will have a deleterious or other effect upon the credit or general financial condition of such county, municipal corporation, political subdivision or other local public body. No such advice shall be binding upon such county, municipal corporation, political subdivision or other local public body, and the failure of such county, municipal corporation, political subdivision or other local public body to follow or be guided by such advice shall have no adverse or other effect upon the validity of bonds issued contrary thereto. To the end that said Department of Finance may have an opportunity to make such investigation and give such advice, it shall be the duty

of such county, municipal corporation, political subdivision or other local public body to advise the said Department of Finance in writing, of its intention to sell any such proposed bonds at least two weeks before the sale thereof. (21) In the event of default for ninety days or more in the payment of the principal of or interest on any general obligation, special assessment, revenue or other bond of any county, municipal corporation, political subdivision or local public body (except boards of education) which default is not due to a bona fide dispute as to the validity or amount of, such principal or interest or with respect to the payment of which no agreement shall have been made with the holder thereof, the Department of Finance may, if requested in writing so to do by the holder of any bond so in default, take charge of the revenues, moneys and income of such county, municipal corporation, political subdivision or local public body to the extent to which such revenues, moneys or income are exclusively applicable to the payment of such principal or interest or to the payment of the principal or interest, or both, of the issue of bonds to which such defaulted bond belongs, and to supervise and control the expenditure thereof until such default shall have been cured or until a plan for the orderly liquidation of such obligation of such county, municipal corporation, political subdivision or local public body shall have been formulated and accepted by the governing body thereof and the holders of three-fourths in amount or face value of outstanding bonds with respect to which any such default exists or is impending. Provided, however, that nothing in this subsection shall apply to any municipal corporation now retiring its indebtedness under a schedule ordered or authorized by any District Court of the United States during the term of the bond retirement schedule authorized, nor shall anything in this subsection apply to any bond or other evidence of indebtedness issued by any municipal corporation to obtain a loan or loans from any agency of the United States of America. (22). To assist, advise with and furnish information to the officers of counties, municipal corporations, political subdivisions and local public bodies of the State with respect to finances, taxation, revenue, indebtedness, accounting and budgeting. (23). To collect such information and data as may be necessary or desirable concerning the finances, taxation, revenue, indebtedness, accounting and budgeting of counties, municipal corporations, political subdivisions and local public bodies in the State and to prepare and make such studies and reports as may be necessary or desirable in connection therewith and, when approved by the Director of Finance, to cause such studies and reports to be printed and distributed. (24). To make the annual financial report of the State, as soon as possible after the close of each fiscal year, in accordance with approved public accounting practice, and in such form and such detail as may be

necessary to present an accurate description of the financial condition of the State during the preceding fiscal year. The reports of the State Auditor and the State Treasurer shall be bound with and printed as a part of such report. (25). To conduct such studies, secure such information and data, to make such reports and to furnish such information as may be required by the Governor or the Legislature.

Section 6. TRANSFER OF FUNCTIONS AND DUTIES OF OTHER STATE DEPARTMENTS AND AGENCIES TO THE DEPARTMENT OF FINANCE. All functions and duties heretofore assigned by law to any department, board, bureau, commission, agency or office of the State but assigned by this Act to the Department of Finance shall be performed by the Department of Finance; and each such department, board, bureau, commission, agency or office is hereby relieved of such functions and duties, and the following sections which provide for specific transfers of certain functions and duties to the Department of Finance are not intended to limit the generality of the foregoing provision, it being the intention of the Legislature in enacting this Act to bring together all such functions and duties in the Department of Finance for purposes of efficiency and economy.

Section 7. ABOLITION OF THE DEPARTMENT OF EXAMINERS OF ACCOUNTS AND THE DIVISION OF DEPARTMENTAL AND COUNTY AUDITS IN THE OFFICE OF STATE COMPTROLLER AND THE TRANSFER OF THE FUNCTION AND DUTIES THEREOF TO THE DEPARTMENT OF FINANCE. The Department of Examiners of Accounts and the Division of Departmental and County Audits in the office of the State Comptroller are hereby abolished. Provided, however, that all of the powers, functions and duties of said department and said division as now provided by law or which may hereafter be provided, except the powers, functions and duties with respect to Confederate pensions, as provided in the Alabama Code of 1923, Chapter 55, Article I (Sections 2933-2974), as amended, be and the same are hereby transferred and conferred upon the Department of Finance.

Section 8. TRANSFER OF CERTAIN FUNCTIONS AND DUTIES OF THE STATE AUDITOR TO THE DEPARTMENT OF FINANCE. All functions and duties of the State Auditor, with respect to drawing warrants on the State Treasury, the settlement of accounts, both receipts and disbursements, and the keeping of accounting records and the making of financial reports (except such records as are essential in order for him to perform the functions and duties required of him by law and such as cannot be secured from any other source or such as he must necessarily keep for his own protection and except such reports as are required by the Constitution) with respect to State deposi-

taries and the receipt of financial statements and reports from such depositaries and the receipt of duplicate receipts from officers making deposits therein, and with respect to the approval of forms for a uniform county accounting system are hereby transferred to and conferred upon the Department of Finance. The State Auditor shall hereafter draw no warrants on the State Treasury and he shall not check or approve in advance any warrants drawn by any officer of the Department of Finance.

Section 9. TRANSFER OF CERTAIN FUNCTIONS AND DUTIES OF THE STATE TREASURER TO THE DEPARTMENT OF FINANCE. The functions and duties of the State Treasurer with respect to the investment of sinking funds are hereby transferred to and conferred upon the Department of Finance.

Section 10. TRANSFER OF THE POWERS, FUNCTIONS, AND DUTIES OF THE SINKING FUND COMMISSION TO THE DEPARTMENT OF FINANCE AND THE ABOLITION OF SAID COMMISSION. The powers, duties, and functions of the Sinking Fund Commission with respect to the Sinking Fund for Retiring Old Bonded Debt, except the safe keeping thereof, and of all bonds, securities and other personal property on account thereof, are hereby transferred to and conferred upon the Department of Finance, and said Sinking Fund Commission is hereby abolished.

Section 11. ABOLITION OF THE OFFICE OF STATE COMPTROLLER, REPEAL OF SECTIONS 1 to 9-A OF THE BUDGET AND FINANCIAL CONTROL ACT; TRANSFER OF ALL FUNCTIONS AND DUTIES OF THE STATE COMPTROLLER AND THE OFFICE OF THE STATE COMPTROLLER TO THE DEPARTMENT OF FINANCE. The office of State Comptroller is hereby abolished. Sections 1 to 9-A, both inclusive, of the Budget and Financial Control Act, being Act No. 37, General Laws of Alabama, approved September 27, 1932, Acts of 1932, pp. 35-48, are hereby repealed. All functions and duties heretofore conferred upon the State Comptroller or the Office of the State Comptroller are hereby transferred to and conferred upon the Department of Finance. The Director of Finance shall serve in every capacity in which the State Comptroller has heretofore served. Without limiting the generality of the foregoing, he shall serve as a member of the State Board of Adjustment.

Section 12. TRANSFER OF CERTAIN FUNCTIONS AND DUTIES OF THE STATE BOARD OF ADMINISTRATION AND THE PRESIDENT THEREOF TO THE DEPARTMENT OF FINANCE. All functions and duties of the State Board of Administration or of its President (Chairman) with respect to printing and binding, the purchase or contracts or leas-

es for the acquisition or use of furniture, fixtures, supplies, materials, equipment and other personal property, the distribution of such property, printed matter and school text books, the making and keeping of inventories of State property, the insurance of State property, the operation, management and administration of the State Insurance Fund, the operation, management and administration of the State Surety Insurance Fund, and all accounting and auditing functions and duties assumed by the State Board of Administration are hereby transferred to and conferred upon the Department of Finance.

Section 13. TRANSFER OF CERTAIN FUNCTIONS AND DUTIES OF THE SECRETARY OF STATE TO THE DEPARTMENT OF FINANCE. All functions and duties of the Secretary of State (except those assigned to him by the Constitution) with reference to the purchase of stationery, paper and fuel, the repairing and furnishing of the legislative halls and rooms, and the preservation of the fuel of the State, are hereby transferred to and conferred upon the Department of Finance. Whenever the Constitution shall have been so amended as to permit it, all such functions and duties shall be assigned to and conferred upon the Department of Finance.

Section 14. TRANSFER OF CERTAIN FUNCTIONS AND DUTIES OF THE GOVERNOR AND THE SECRETARY TO THE GOVERNOR WITH RESPECT TO STATE PROPERTY TO THE DEPARTMENT OF FINANCE. All functions and duties of the Governor and of the Secretary to the Governor with respect to State property, the assignment of rooms in the State capitol and in other buildings owned or leased by the State, the care and guarding of the State Capitol and grounds and all other State property, are hereby transferred to and conferred upon the Department of Finance.

Section 15. ABOLITION OF THE PUBLIC WORKS BOARD OF ALABAMA AND TRANSFER OF ITS FUNCTIONS AND DUTIES TO THE DEPARTMENT OF FINANCE. The Public Works Board of Alabama is hereby abolished and all of its functions and duties are hereby transferred to and conferred upon the Department of Finance. The power and authority of said Board with respect to the approval of any project or projects or the issuance of any bonds or securities shall be exercised by the Director of Finance or by the Chief of the Division of Local Finance, hereinafter provided for. The written approval of the Director of Finance or of the Chief of the Division of Local Finance, without any seal or attestation, shall be sufficient approval for any project, bonds or securities requiring the approval of the Public Works Board of Alabama. None of the functions and duties of the Public Works Board of Alabama existing before

the enactment of this Act shall be conferred upon or exercised by the Public Service Commission of Alabama.

Section 16. APPROPRIATIONS; TRANSFER OF CERTAIN APPROPRIATIONS. All appropriations to any department, board, bureau, commission, agency or office of the State for the purpose of performing any of the functions or duties hereby transferred to or conferred upon the Department of Finance, are hereby transferred and assigned to the Department of Finance. All appropriations heretofore or hereafter made for the purchase, acquisition or use of furniture, fixtures, supplies, materials, equipment or other personal property, appropriations for printing and binding and the distribution of printed matter, appropriations for the maintenance, repair, improvement, lighting, heating and cleaning of the State Capitol and other property owned or leased by the State in the City of Montgomery, and appropriations for postage and telephone expenses for any department, board, bureau, commission, agency or office of the State located and operating in the City of Montgomery shall be used for the purpose and, if so made, for the department, board, bureau, commission, agency, office or institution for which made; but such appropriations shall be expended by and on the order of the Department of Finance for such purposes.

Section 17. TRANSFER OF RECORDS, EQUIPMENT, ETC. TO THE DEPARTMENT OF FINANCE. All books, records, accounts, documents, papers, furniture, fixtures, supplies, material, equipment and other personal property possessed or used by any department, board, bureau, commission, agency or office of the State in connection with the performance of any functions or duties transferred to and conferred upon the Department of Finance by this Act are hereby transferred and assigned to the Department of Finance and shall be delivered upon the request of the Director of Finance.

Section 18. POWERS OF THE DIRECTOR OF FINANCE AND HOW EXERCISED; RESTRICTIONS THEREON. All functions and duties of the Department of Finance shall be exercised by the Director of Finance, acting by and through such administrative divisions or such officers as he may designate. He shall have all power and authority necessary or convenient to carry out the functions and duties of the Department of Finance. In all cases in which the functions and duties of any other State Department, board, bureau, commission, agency or office are herein transferred to or conferred upon the Department of Finance, all power and authority heretofore conferred upon any officer or employee of such department, board, bureau, commission, agency or office in connection with such functions or duties are hereby transferred to and conferred upon the Director of Finance. The Director of Finance shall serve in every capacity with respect to such functions and duties as any such officer or employee. In the

performance of such functions and duties and in the exercise of such powers and authorities, the Director of Finance and all other officers and employees of the Department of Finance shall, however, be subject to all legal restrictions, limitations, conditions and penalties, civil and criminal, with respect to the performance of such functions and duties and the exercise of such powers and authorities. All reports and statements required to be made to any such State department, board, bureau, commission, agency or office shall hereafter be made to the Department of Finance.

Section 19. RULES AND REGULATIONS; PENALTIES FOR VIOLATIONS THEREOF. The Director of Finance shall, with the approval of the Governor, establish and promulgate rules and regulations with respect to the manner of performance of all functions and duties of the Department of Finance, the execution of the business of the Department and its relations to and business with the other departments, boards, bureaus, commissions, agencies, offices and institutions of the State, the officers and employees thereof, the counties, municipal corporations, political subdivisions and local public bodies in the State, the officers and employees thereof, and the public, which rules and regulations shall be reasonably calculated to effect the expeditious and efficient performance of such functions and duties and shall not be in conflict with applicable statutes. When approved by the Governor, such rules and regulations shall have the effect of law and shall govern all departments, boards, bureaus, commissions, agencies, offices and institutions of the State and the officers and employees thereof, the counties, municipal corporations, political subdivisions and local public bodies in the State, the officers and employees thereof, and the public, in their respective relations to and business with the Department of Finance. Compliance with any such rules or regulations may be compelled by mandamus. Such rules and regulations may be amended from time to time, with the approval of the Governor. Until such rules and regulations shall have been promulgated by the Director of Finance, all existing rules and regulations of any department, board, bureau, commission, agency or office, the duties and functions of which have been transferred to the Department of Finance, shall continue to apply to such functions and duties. Anything herein to the contrary notwithstanding, the Department of Finance shall have no power to adopt any rule which shall impose any mandatory duties upon counties, municipal corporations, political subdivisions and local public bodies, including counties and city boards of education, other than such mandatory duties as may be imposed upon them by this act.

Section 20. INSPECTION AND PRODUCTION OF BOOKS, RECORDS, ACCOUNTS, ETC; EXAMINATION OF WITNESSES. The Director of Finance and any authorized officer or employee of the Department of Finance shall, in the

performance of his official duties, for the purpose of examination, have access to and the right to copy from any book, record, account, document, receipt or paper of any of the departments, boards, bureaus, commissions, agencies, offices or institutions of the State or of any of the counties, municipal corporation, political subdivision or public bodies in the State or of the officers or employees thereof, in such manner as may be reasonable and at reasonable times. The Director of Finance or any officer or employee of the Department of Finance designated by the Director, in the performance of his official duties, shall have the power to administer oaths, certify to official acts, take and cause to be taken depositions of witnesses, issue subpoenas, compel the attendance of witnesses and the production of accounts, documents, receipts, papers and testimony, and all witnesses regularly summoned as herein provided shall be paid five cents per mile each way for the distance traveled plus three dollars per diem for each day consumed in the hearing and in the traveling to and from the place of hearing. In the event of the failure of any person to comply with any subpoena lawfully issued, or on the refusal of any witness to produce evidence or to testify as to any matter regarding which he may be lawfully interrogated, it shall be the duty of any court of competent jurisdiction or the judge thereof, upon the application of the Director of Finance or any officer of the Department of Finance designated by the Director, to compel obedience by attachment proceedings for contempt, as in the case of disobedience of the requirements of a subpoena issued for such court or a refusal to testify therein. A wilfully false material statement in any examination herein provided for shall constitute perjury and be punishable as such.

Section 21. THE DIVISION OF CONTROL AND ACCOUNTS; THE COMPTROLLER. There is hereby established in the Department of Finance the Division of Control and Accounts, which shall be headed by and be under the direction, supervision and control of an officer, who shall be designated the Comptroller, to be appointed by the Director of Finance, with the approval of the Governor. The functions and duties of the Division of Control and Accounts shall be as follows: (1) To keep all books, records and accounts relating to the finances of the State government (including the budget accounts) which are authorized or required to be kept by the Department of Finance, in accordance with recognized standards of public accounting and in such a manner as at all times to reveal the true financial status of the State government and of each special fund and account in the State Treasury. (2) To control and make records of all payments into and out of the State Treasury and each special fund and account therein. (3) To audit currently all receipts and receivables. (4) To pre-audit and determine the correctness and legality of every

claim and account submitted for the issuance of a warrant and to determine that funds have been appropriated and allotted and are then available in the State Treasury for the payment of such claim or account before any warrant on the State Treasury shall be issued, except that the pre-audit of claims for unemployment compensation or Confederate pensions or public assistance or child welfare shall be performed by the department or departments having charge of the other functions and duties relating to unemployment compensation, Confederate pensions or public assistance, or child welfare, subject to the general supervision of the Division of Control and Accounts. (5) To draw every warrant authorized to be drawn upon the State Treasury and any fund therein, whether a special or earmarked fund or not. No warrant shall hereafter be drawn on the State Treasury by the State Auditor or any other officer or employee of the State except a duly authorized officer or employee of the Department of Finance, except that all warrants for the payment of unemployment compensation or Confederate pensions or public assistance or child welfare benefits or claims shall be drawn by the department or departments having charge of the other functions and duties relating to unemployment compensation, Confederate pensions, public assistance, or child welfare, subject to the general supervision of the Division of Control and Accounts. (6) To prepare all accounting forms to be used in or by all departments, boards, bureaus, commissions, agencies, offices and institutions of the State. When prepared such forms shall be used exclusively by the departments, boards, bureaus, commissions, agencies, offices and institutions of the State for which they were prepared. (7) To secure such information and data, to prepare or make such studies and reports and to perform such other functions and duties of the Department of Finance as may from time to time be assigned by the Director of Finance.

Section 22. THE DIVISION OF THE BUDGET; THE BUDGET OFFICER. There is hereby established in the Department of Finance the Division of the Budget, which shall be headed by and be under the direction, supervision and control of an officer, who shall be designated the Budget Officer, to be appointed by the Director of Finance, with the approval of the Governor. The functions and duties of the Division of the Budget shall be as follows: (1) To prepare a detailed tentative budget for every department, board, bureau, commission, agency, office and institution of the State, including those which employ special or earmarked funds, and all earmarked and special funds shall be included in the regular budget of each such department, board, bureau, commission, agency, office or institution. (2) To make all budget allotments. (3) To administer, enforce and supervise the execution of the budget, including the enforcement of penalties

for the violation of any law, rule or regulation with respect thereto. (4) To perform all acts and duties required with respect to the budget by the provisions of the Budget and Financial Control Act referred to in Section 11 of this Act, as now or hereafter amended. (5) To perform all functions and duties of the Department of Finance with respect to the preparation of revenue bills and appropriation bills. (6) To prepare or make such comparisons, studies and reports as may be helpful in the preparation or execution of the budget or the making of budget allotments or as may be required from time to time by the Director of Finance or the Governor. (7) To secure such information and data from any department, board, bureau, commission, agency, office or institution of the State or any officer or employee thereof as may be needed or considered helpful in the preparation of the budget or any report, study, comparison or other assignment of the Division of the Budget. (8) To perform such other functions and duties of the Department of Finance as may from time to time be assigned by the Director of Finance.

Section 23. THE DIVISION OF PURCHASES AND STORES; THE PURCHASING AGENT. There is hereby established in the Department of Finance the Division of Purchases and Stores, which shall be headed by and be under the direction, supervision and control of an officer, who shall be designated the Purchasing Agent, to be appointed by the Director of Finance, with the approval of the Governor. The functions and duties of the Division of Purchases and Stores shall be as follows: (1) To perform all functions and duties of the Department of Finance with respect to purchases and contracts and leases for the use or acquisition of any personal property for the State and each department, board, bureau, commission, agency, office and institution thereof. (2) To perform the functions and duties of the Department of Finance with respect to purchases and contracts and leases for the acquisition or use of any personal property by or for the counties, municipal corporations, political subdivisions and local public bodies in the State, including the preparation of forms for the reports required of the counties and the receipt and examination of such reports. (3) To distribute all furniture, fixtures, supplies, materials, equipment and other personal property purchased or acquired for the use of the State or any of its departments, boards, bureaus, commissions, agencies, offices or institutions, and to maintain a storeroom or storerooms for the safe-keeping and distribution thereof. No such property shall be distributed or delivered to any such department, board, bureau, commission, agency, office or institution of the State unless affirmatively required by law or unless provided for on a requisition previously approved as within an allotment previously made therefor by the Division of the Budget and unless an authorized officer or

employee of such department, board, bureau, commission, agency, office or institution shall have given his receipt therefor. (4) To maintain a perpetual inventory of all furniture, fixtures, supplies, materials, equipment and other personal property on hand by its order and undistributed. (5) To fix standards of quality and quantity and to develop standard specifications for all personal property required by the State or any department, board, bureau, commission, agency office or institution thereof. (6) To maintain records as to prices and sources of supply of such personal property, such records to be open to the inspection of any state, county, municipal or other public officer or employee charged with the duty of acquiring any such property or article for his department, board, bureau, commission, agency, office, institution, county, municipal corporation, political subdivision or local public body. (7) To perform all functions and duties of the Department of Finance with respect to printing and binding and the distribution of printed matter and also the distribution of school text-books purchased or contracted for by the State. (8) To perform such other functions and duties of the Department of Finance as may from time to time be assigned by the Director of Finances. As long as the Constitution so requires, all stationery, printing, paper and fuel used in the legislative and other departments of the government, shall be furnished, and the printing, binding and distribution of the laws, journals, departmental reports and all other printing, binding and repairing, and furnishing the halls and rooms used for the meetings of the Legislature and its committees, shall be performed under contract, to be given to the lowest responsible bidder below a maximum price, under such regulations as have been or may be prescribed by law and as may be promulgated by the Director of Finance. No member or officer of any department of the government shall be in any way interested in such contracts, and all such contracts shall be subject to the approval of the Governor, the State Auditor, and the State Treasurer. All contracts not required to be approved by a named officer or officers by the Constitution shall be subject to the approval of the Director of Finance, who may, however, provide for the automatic approval thereof by compliance with general rules or regulations promulgated by him. If and when section 69 of the Constitution shall have been so amended as to remove any requirement for the approval of the contracts therein mentioned by the Governor, the State Auditor and the State Treasurer, such contracts shall be approved by the Director of Finance in the manner hereinabove provided.

Section 24. THE DIVISION OF SERVICE; THE CHIEF OF THE DIVISION. There is hereby established in the Department of Finance the Division of Service, which shall be headed by and be under the direction, supervision and control of an officer

who shall be designated the Chief of Service, to be appointed by the Director of Finance, with the approval of the Governor. The functions and duties of the Division of Service shall be as follows: (1) To provide and operate a central mailing room and service for each department, board, bureau, commission, agency and office of the State located and operating in the City of Montgomery. All mail shall be delivered to such mailing room ready to be delivered to the United States post office, except that it shall not be stamped with postage stamps or by means of a postage meter. Every piece of mail, when so delivered, shall bear the name of the department, board, bureau, commission, agency or office of the State sending it and all mail received in the mailing room shall be properly stamped with postage stamps or passed through an authorized postage meter and then delivered to the United States post office. The chief of the Division of Service shall cause an accurate account to be kept of all pieces of mail from and the postage used on account of each department, board, bureau, commission, agency and office of the State, and the cost of such postage shall be charged by the Comptroller against its appropriation for such purpose. Such central mailing room shall be conveniently located and shall be kept open for business as long as may be necessary to dispose of all outgoing mail daily. The expenditure of any State funds for postage by any department, board, bureau, commission, agency or office of the State required to deliver its mail to the central mailing room (other than the Department of Finance) shall be illegal. This subsection shall not, however, prevent the stamping or metering of envelopes for the transmittal of unemployment compensation warrants and, warrants for the payment of any public assistance benefits in, or the mailing of such envelopes from, the department or departments having charge of the other functions and duties relating to unemployment compensation and public assistance. (2) To provide and make all contracts and agreements in relation to the telephone service to each of the departments, boards, bureaus, commissions, agencies and offices of the State located and operating in the City of Montgomery. Insofar as practicable, all telephones shall be connected through a central switchboard or switchboards, into which there may be as many trunk lines as the business of the State justifies. The telephone expense of each such department, board, bureau, commission, agency or office of the State shall be charged by the Comptroller against its appropriation for such purpose. (3) To operate and maintain a central clerical and stenographic pool for the purpose of providing each department, board, bureau, commission, agency and office of the State located and operating in the City of Montgomery with all part-time and emergency employees. No department, bureau, board, commission, agency or office of the State whose operations are not sufficient in number or amount to war-

warrant the maintenance of its own clerical or stenographic staff, shall be authorized to employ any clerk or stenographer, and any such authority as may now exist is hereby repealed and revoked. The Governor shall have full power and authority to determine whether or not the operation of any department, board, bureau, commission, agency or office are sufficient in number or amount to warrant the maintenance of one or more clerks or stenographers, and he shall order the reduction in the number of employees to the number of full-time employees warranted by the operations of such department, board, bureau, commission, agency or office and all other needs for clerical or stenographic service shall be supplied by the clerical and stenographic pool herein provided for. (4) To manage, supervise, maintain, repair, improve, light, heat and clean the Capitol and all buildings and property owned or leased by the State in the City of Montgomery, including monuments and historical sites. In any case in which an appropriation has been or shall be made for such purposes to any department, board, bureau, commission, agency or office of the State for such purpose, the expenses of such services for buildings or property used by it shall be charged by the Comptroller to such department, board, bureau, commission, agency or office. (5) With the approval of the Governor, to allocate space in the Capitol and in all buildings owned or leased by the State in the City of Montgomery for the use of the departments, boards, bureaus, commissions, agencies and offices of the State. (6) To provide a guard, watchman and police service for the Capitol and the other buildings and property owned or leased by the State and located in the City of Montgomery. (7) To maintain a permanent and perpetual inventory of all State furniture, fixtures, equipment and non-consumable personal property and to require all officers and employees to whom any State property has been assigned or entrusted to account therefor periodically. (8) With the approval of the Governor, to transfer between departments, boards, bureaus, commissions, agencies, offices and institutions of the State any furniture, fixtures, supplies, material, equipment or other personal property. (9) To sell, exchange or otherwise dispose of any personal property of the State determined by the Director of Finance not to be needed for public use or to have become unsuited for such use. (10) To perform such other functions and duties of the Department of Finance as may from time to time be assigned, by the Director of Finance.

Section 25. DIVISION OF LOCAL FINANCE; THE CHIEF OF THE DIVISION. There is hereby established in the department of Finance the Division of Local Finance, which shall be headed by and be under the direction, supervision and control of an officer, who shall be designated the Chief of the Division of Local Finance, to be appointed by the Director of Finance with the approval of the Governor. The functions and duties of the

Division of Local Finance shall be all of the functions and duties of the Department of Finance relating to counties, municipal corporations, political subdivisions and local public bodies, except those relating to the purchase of personal property and contracts and leases for the use or acquisition thereof; provided, however, that the Division of Local Finance shall enforce the submission of reports by the counties with respect to their purchases of personal property and their contracts and leases for the use or acquisition thereof.

Section 26. CREATION OF ADDITIONAL DIVISIONS IN THE DEPARTMENT OF FINANCE; ASSIGNMENT OF FUNCTIONS AND DUTIES. With the approval of the Governor, the Director of Finance may create and establish such additional division or divisions as may be determined to be necessary or convenient in the efficient and expeditious performance of the functions and duties of the department of Finance and assign functions and duties for such division or divisions, and he may, with the approval of the Governor, reassign functions and duties as between existing divisions. Chiefs of such new divisions shall be appointed by the Director of Finance with the approval of the Governor.

Section 27. BONDS AND SALARIES OF THE CHIEFS OF THE DIVISIONS OF THE DEPARTMENT OF FINANCE; BONDS OF CERTAIN OTHER EMPLOYEES. Before entering upon the discharge of their duties, the Comptroller, the Budget Officer, the Purchasing Agent, the Chief of the Division of Service, the Chief of the Division of Local Finance and the Chief of any other Division established by the Director of Finance, shall take the constitutional oath of office. Such officers and all employees of the Department of Finance authorized or permitted to handle any money or to draw any warrant on the State Treasury shall give bond in such penalty as may be fixed by the Director of Finance, conditioned upon the faithful discharge of their duties. The amount of the penalty of the bond of any employee or officer authorized to draw any warrant upon the State Treasury shall not, in any event, be less than \$25,000. The premium on all such bonds shall be paid out of the State Treasury. The salaries of the Comptroller, the Budget officer, the Purchasing Agent, the Chief of the Division of Service and the Chief of the Division of Local Finance, and the Chief of any other Division established by the Director of Finance shall be fixed by the Director of Finance, with the approval of the Governor, and shall be paid in the same manner and at the same time as the salaries of other State officers, but no one of such salaries shall exceed \$4,500 per annum. Each of such officers shall devote his full time to his official duties and shall hold no other lucrative position while serving as such.

Section 28. EMPLOYEES OF THE DEPARTMENT OF FINANCE. The Director of Finance shall, with the approval of the Governor, determine the number of employees needed for the efficient and economical performance of the functions and duties of the Department of Finance and the salaries to be paid all such employees. All employees heretofore employed by any department, board, bureau, commission, agency or office in connection with any of the functions or duties which have been transferred to and conferred upon the Department of Finance by this Act, the right to appoint or nominate such employees, and all appropriations for the payment of such employees, are hereby transferred and assigned to the Department of Finance. The Director of Finance shall however, have the right to discharge any such employee, if, in his discretion, he shall conclude that the services of such employee are not needed or that the efficiency of the Department will be increased by the replacement of such employee. Employees determined to be needed and not transferred from some other department, board, bureau, commission, agency or office of the State and employees to replace any employees so transferred shall be appointed by the Director of Finance.

Section 29. APPLICATION OF MERIT SYSTEM ACT. Anything in this Act to the contrary notwithstanding, all employees and officers of the Department of Finance (including the chiefs of divisions but not including the Director of Finance) shall be subject to the provisions of any law now existing or hereafter enacted with respect to the method of selection and classification of State employees on a basis of merit.

Section 30. None of the provisions of this Act other than the provisions, in so far as applicable, of Section 5, except subsection 9 thereof, 20, 21, 22 and subsections (1), (6), and (7) of Section 23 shall apply to any state educational or eleemosynary institution which is governed by a Board of Trustees or other similar governing body; provided, however, that the words "personal property" wherever used in this Act shall not, when applied to such institutions, be in any way so construed as to mean or include mortgages, bonds, choses in action, or any other forms of personal property purchased for investment, resale or exchange, or perishable goods, or medical or surgical equipment and supplies; provided further that such institutions shall have the right to fix and determine the specifications and standards of quality and quantity of all personal property and printing required by them, and they shall have the benefit of all prices on the same obtained by the Division of Purchases and Stores. The power to purchase such property is hereby transferred from the Purchasing Agent to such institutions whenever in the opinion of the Director of Finance or his designated agent it is necessary in order to secure educational or other discounts on purchases or whenever, in his opinion, a

lower price or other economic advantage may be secured by the institution, and such institutions shall have the benefits of all such discounts and lower prices. Nothing contained in this Act shall be so construed as to conflict with applicable laws relating to the budget or budget allotments or to the receipt, custody, control, expenditures and disbursements by such institutions of the funds and assets of such institutions. "None of the provisions of this Act shall apply to any purchases of Fifty (\$50.00) Dollars or less of any commodity or article or single purchase made by any State educational or eleemosynary institution which is governed by a Board of Trustees or other similar governing body, or made by any State Normal School or College."

Section 31. BEGINNING OF OPERATION OF DEPARTMENT OF FINANCE. The Department of Finance shall begin the performance of the functions and duties herein transferred to and conferred upon it as soon as practicable after the effective date of this Act and after the appointment and qualifications of the Director of Finance, but each function or duty transferred to and conferred upon the Department of Finance from some other department, board, bureau, commission, agency or office of the State shall continue to be performed as before the effective date of this Act until the Director of Finance shall notify the officer or employee in charge of such department, board, bureau, commission, agency or office that the Department of Finance is ready to assume the functions and duties of such department, board, bureau, commission, agency or office or some designated part of such functions or duties, at which time the transfer shall be effective.

Section 32. GRANTS RECEIVED FROM THE FEDERAL GOVERNMENT—Nothing in this act shall be deemed to authorize or require the allotment, handling, or expenditure of any moneys received as grants from the Federal Social Security Board or any other agency of the Federal Government, or the use or disposition of any properties purchased therewith, in a manner contrary to any condition or limitation attached to any such grant.

Section 32-A. There is hereby appropriated out of the State Treasury such monies as may be necessary to carry out the provisions of this Act, and to pay the salaries provided for and expenses incurred hereunder.

Section 33. REPEAL OF CONFLICTING LAWS. All laws or parts thereof in conflict with any provision of this Act are hereby repealed to the extent of such conflict.

Section 34. SEVERABILITY. If any provision of this Act or the application thereof to any person, circumstance or situation shall be held invalid, such holding shall not affect the remaining provisions thereof nor the application of the provision with respect to which such holding shall be made to any other person, circumstance or situation.

Section 35. This act shall take effect immediately upon its approval by the Governor.

Approved March 7, 1939.

No. 114)

(S. J. R. 33—Stakely

SENATE JOINT RESOLUTION

Pertaining to the reception by a joint session of the Legislature of Alabama, of the Iowa delegation who will deliver the old historic Alabama Flag to the State.

WHEREAS, the State of Iowa, through its Legislature has authorized the return to Alabama of the flag presented to the Secession Convention by a group of Montgomery women and accepted by that body on January 11, 1861, as a State flag following Alabama's withdrawal from the Federal Union; the flag being forthwith hoisted above the dome of the Capitol at Montgomery, and which flag was removed from the archives of the State in 1864 by an Iowa soldier and placed in the Historical Society of Iowa in 1892, and

WHEREAS, the State of Iowa proposes in the near future to return this flag by an official representative of that State;

BE IT RESOLVED, that said representative or representatives from the State of Iowa shall be received by a joint session of the Legislature of Alabama and the old historic flag accepted by the Governor of the State of Alabama during such joint session in acknowledgment of this friendly gesture on the part of our sister State of Iowa in returning this Secession flag and in memory of one of the most momentous events in the State's history of the 1860's.

BE IT FURTHER RESOLVED, that upon the return and acceptance of said Secession flag that the flag shall be deposited with other historic flags and banners in the Alabama State Department of Archives and History and that suitable resolutions of acknowledgment and thanks be transmitted to the people of Iowa by legislative authority and through the Governor of Alabama to the Governor of Iowa.

Approved March 8, 1939.

No. 115)

(S. J. R. 35—Lusk

SENATE JOINT RESOLUTION

Designating United States Highway #11 as "The Gold Star Highway."
That United States Highway #11 be designated as "The Gold Star Highway"
in memorial to the War dead of Alabama and to those mothers who gave
their sons to our State.

BE IT FURTHER RESOLVED that the American Legion Auxiliary may mark, beautify and landscape such Highway under the supervision of the Highway Department and in accordance with specifications of the Highway Department. Nothing in this Resolution shall change any numbers of such Highway as given by the State or Federal Government.

Approved March 8, 1939.

No. 116)

(S. 102—Stakely

AN ACT

To repeal An Act Entitled "An Act to establish Jury Boards in every County in this State which now have or which may hereafter have a population of 75,000 and not more than 100,000 according to the last Federal Decennial Census or any such census which may hereafter be taken; and to provide that the clerk of the Circuit Court of all such counties shall be ex-officio clerk of such Jury Boards; to fix the salary of such clerk and the manner of its payment." Approved March 9, 1931.

Be it Enacted by the Legislature of Alabama:

Section 1. That an Act of the Legislature entitled "An Act to establish Jury Boards in every County in this State which now have or which may hereafter have a population of 75,000 and not more than 100,000 according to the last Federal Decennial Census or any such census which may hereafter be taken; and to provide that the clerk of the Circuit Court of all such counties shall be ex-officio clerk of such Jury Boards; to fix the salary of such clerk and the manner of its payment," Approved March 9, 1931, be and it is hereby repealed.

Section 2. This Act shall become effective and be in force immediately upon it becoming a law.

Approved March 8, 1939.

No. 117)

(S. 103—Stakely

AN ACT

To repeal an Act Entitled "An Act" to create and establish a Board of Jury Supervisors in every county in this State which now have or which may hereafter have a population of as much as seventy-five thousand and not more than one hundred thousand people, according to the last Federal Decennial Census. Or any such census which may hereafter be taken; to provide that the Circuit Judges, the Judge of Probate, the Sheriff and the Clerk of the Circuit Court of all such Counties shall constitute the Board of Jury Supervisors and to confer upon them all the jurisdiction and all the power and authority which is now or which may hereafter be by law vested in Jury Boards in this State; to provide that they shall perform and discharge all the duties of Jury Boards without compensation, except as provided by this Act; to authorize them to elect one of their number President of such Board of Jury Supervisors. And to provide that the Clerk of the Circuit Court of all such counties shall be Ex-Officio Clerk of such Board of Jury Supervisors; to fix his salary as such clerk, the manner of its payment, and to abolish the Jury Board and the Clerk thereof in all such counties." Passed over the Governor's Veto June 18, 1931.

Be it Enacted by the Legislature of Alabama:

Section 1. That an Act of the Legislature entitled "An Act" to create and establish a Board of Jury Supervisors in every county in this State which now have or which may hereafter have a population of as much as seventy-five thousand and not more than one hundred thousand people, according to the last Federal Decennial Census. Or any such census which may hereafter be taken; to provide that the Circuit Judges, the Judge of Probate, the Sheriff and the Clerk of the Circuit Court of all such Counties shall constitute the Board of Jury Supervisors and to confer upon them all the jurisdiction and all the power and authority which is now or which may hereafter be by law vested in Jury Boards in this State; to provide that they shall perform and discharge all the duties of Jury Boards without compensation, except as provided by this Act; to authorize them to elect one of their number President of such Board of Jury Supervisors. And to provide that the Clerk of the Circuit Court of all such counties shall be Ex-Officio Clerk of such Board of Jury Supervisors; to fix his salary as such clerk, the manner of its payment, and to abolish the Jury Board and the Clerk thereof in all such counties, passed over the Governor's Veto June 18, 1931, be and it is hereby repealed.

Section 2. This Act shall become effective and be in force immediately upon it becoming a law.

Approved March 8, 1939.

No. 121)

H. 110—Pitts

AN ACT

To Amend Section 6670 of The Code of Alabama of 1923.

Be it Enacted by the Legislature of Alabama:

That Section 6670 of the Code of Alabama of 1923, be amended so as to read as follows: SECTION 6670: EXECUTIONS ON JUDGMENTS; NEW TRIAL MUST BE ASKED IN THIRTY DAYS.—After the lapse of ten days from the rendition of a judgment or decree, the plaintiff may have execution issued thereon, and after the lapse of thirty days from the date on which a judgment or decree was rendered, the Court shall lose all power over it, as completely as if the end of the term had been on that day, unless a motion to set aside the judgment or decree, or grant a new trial has been filed and called to the attention of the court, and an order entered continuing it for hearing to a future day; provided that in any county in which the trial judge did not reside on the date of the trial such motion may be filed in the office of the Clerk, or Register, of the Court of the County having jurisdiction of said cause, within thirty days from the date of the rendition of the judgment or decree, and the court shall lose all power over it sixty days after the date of the rendition of such judgment or decree as completely as if the end of the term had been on that day unless such motion is called to the attention of the court and an order entered continuing it for hearing to a future date.

Approved March 8, 1939.

No. 122)

H. 164—Dominick

AN ACT

To amend Section 2867 of the 1923 Code of Alabama.

Be it Enacted by the Legislature of Alabama:

Section 1. That Section 2867 of the 1923 Code of Alabama be amended to read as follows: EXAMINATIONS HELD AT MONTGOMERY.—All examinations under this chapter shall be conducted at Montgomery and the State Board of Medical Examiners shall fix the time at which examinations shall be held annually.

Approved March 8, 1939.

No. 123)

H. 168—Peacock

AN ACT

To repeal Section 3 of an Act passed by the Legislature of Alabama at the 1935 session and approved by the Governor of Alabama on July 10, 1935, entitled an act to protect the rights of the public in all matters now pending, or which may hereafter arise involving any public utility; to provide for an appeal to the Courts for, or on behalf of the public on all rulings, orders or decisions of the public service commission; to give each patron of any public utility all of the rights and privileges of any litigant now provided or which shall hereafter be provided by the constitution and laws of this State; to authorize the appointment by the Governor of a Peoples Public Service Attorney, and to prescribe his duties and fix his compensation.

Be it Enacted by the Legislature of Alabama:

Section 1. That Section 3 of an Act passed by the Legislature of Alabama at the 1935 session and approved by the Governor of Alabama on July 10, 1935, entitled an act to protect the rights of the public in all matters now pending, or which may hereafter arise involving any public utility; to provide for an appeal to the courts for, or on behalf of the public on all rulings, orders or decisions of the public service commission; to give each patron of any public utility all of the rights and privileges of any litigant now provided or which shall hereafter be provided by the constitution and laws of this State; to authorize the appointment by The Governor of a Peoples Public Service Attorney, and to prescribe his duties and fix his compensation, be and the same is hereby repealed.

Section 2. That this Act shall take effect immediately upon its passage and approval.

Approved March 8, 1939.

No. 125)

(H. 256—Pitts

AN ACT

To provide for the removal of the administration of the guardianship and estates from the Probate Court to the Chancery Court or courts of like jurisdiction, and to regulate the administration of guardianship and estates in the Chancery Courts or courts of like jurisdiction in this State.

Be it Enacted by the Legislature of Alabama:

Section 1. That the administration or conduct of any guardianship or administration of any estate of a person or persons of unsound mind may be removed from the Probate Court to the Circuit Court in Equity or court of like jurisdiction at any time before the final settlement thereof, by the guardian of any such guardianship or guardian ad litem or next friend of any person

of unsound mind interested in any estate without assigning any special equity, and an order of removal must be made by the court or judge either in term time or in vacation, upon the filing of a sworn petition by any such guardian or guardian ad litem or next friend for the estate of any person or persons of unsound mind, reciting that the petitioner is the guardian or guardian ad litem or next friend of such person or persons of unsound mind, and that in the opinion of the petitioner such guardianship or estate can be better administered in the Circuit Court in Equity or court of like jurisdiction than in the Probate Court.

Section 2. All laws and parts of laws in conflict with the provisions of this Act, be and the same are hereby repealed.

Section 3. This Act shall go into effect immediately upon its passage and approval by the Governor or upon its otherwise becoming a law.

Approved March 8, 1939.

No. 126)

(H. 265—Locke

AN ACT

To Amend Section 1442 of the Code of Alabama, 1923.

Be it Enacted by the Legislature of Alabama:

Section 1. That Section 1442 of the Code of Alabama, 1923, be and the same is hereby amended to read as follows: "1442. Application to and of probate judge for admission of patient; contents of.—When a relative, friend, or other party interested desires to place a person as a patient in one of the insane hospitals, he shall apply to the judge of probate of the county in which the person resides, and the judge of probate, without delay, shall investigate the case, by examining witnesses, or not, as he sees fit, and, if he is reasonably convinced that the case is a suitable one, he shall make application to the Superintendent at Tuscaloosa for his, or her admission, and shall accompany his application with as full and as explicit answers as possible to the following interrogatories describing the case: 1. What is the person's name in full Weight? Age? Sex? Postoffice? Occupation? Single or married? Race? Color? Where born? Names and addresses of correspondents? 2. How long has patient's mental abnormality existed? 3. Has the person epileptic convulsions? 4. Can his (or her) impaired mental condition be attributed to the injurious use of alcohol? Or opiates? Or Tobacco? Or any other drug? 5. Did the present condition begin suddenly? Or come on gradually? 6. Has the person ever exhibited conditions of mental abnormality of any grade before this? (7) Has the person, because

of mental deficiency or defectiveness ever been confined in a poor house or jail? Where was the person ever a patient in an insane hospital? When? 8. Is the person hard to control? What means of restraint have been used? 9. How does the person's insanity exhibit itself? What wrong ideas does he hold? 10. In what way is he (or she) troublesome or dangerous? Is he indecent in his talk or habits? How is he (or she) uncleanly? How has he attempted to destroy property? How well does he attend to work? Or to business? 11. What is the alleged cause of his insanity? What near relatives of the patient have been wrong mentally? Is the person deaf? Dumb? Blind? Lame? Maimed? Paralyzed? or helpless? 12. How is he (or she) sick or diseased, otherwise than mentally so? How much confined in bed? 13. Will the person be an indigent or a paying patient? Providing, however, if the investigation discloses that said patient is entitled to admission to a hospital operated by the United States Veterans' Administration or other agency of the United States Government, the Judge of Probate may cause to be executed and filed with the proper agency of the Veterans' Administration or other agency of the United States Government, an application for admission of said patient to the proper Government Hospital."

Section 2. That all laws and parts of laws in conflict herewith are hereby repealed.

Section 3. This Act shall take effect immediately upon its approval by the Governor.

Approved March 8, 1939.

No. 127)

H. 332—Megginson

AN ACT

To amend, by adding thereto Section 5-½, an Act entitled "An Act to further provide for the general revenue of the State of Alabama," approved February 8th, 1939.

Be it Enacted by the Legislature of Alabama:

Section 1. That an Act entitled "An Act to further provide for the general revenue of the State of Alabama, approved February 8th, 1939, be, and the same is hereby, amended so as to add Section No. 5-½ to read as follows: "Section 5-½. There are, however, further exempted from the provisions of this Act and from the computation of the amount of the tax levied, assessed or payable under this Act the following: (a) The gross proceeds from the sale or sales of fuel and supplies for use or consumption aboard ships plying on the high seas either in intercoastal trade between ports in the State of Alabama and ports in other states of the United States or its possession or in foreign commerce be-

tween ports in the State of Alabama and ports in foreign countries. Provided, however, that nothing in this Act shall be construed to exempt or exclude from the measure of the tax herein levied the gross proceeds of sale or sales of materials and supplies to any person for use in fulfilling a contract for the painting, repair or reconditioning of vessels, barges, ships and other water craft.

Section 2. All laws and parts of laws in conflict herewith are hereby specifically repealed.

Section 3. That this Act shall become effective immediately upon its passage and approval by the Governor.

Approved March 8, 1939.

No. 130)

(H. 42—Welch

AN ACT

To provide for the appointment of a joint committee to read and revise the manuscript of the New Code prepared in part by Hon. Hugh Dent, and completed under contract with The Michie Company, The Harrison Company, and West Publishing Company, and to prescribe its duties and powers, and to fix the compensation of the committee and clerks, and provide for their pay and expense.

Be it Enacted by the Legislature of Alabama:

Section 1. That there is hereby created a joint committee to be composed of five (5) Senators, selected by the Senate, the Lieutenant Governor, and the Speaker of the House, and nine (9) members of the House of Representatives, appointed by the Speaker, who are hereby authorized and required to read, during the recess of the Legislature, the whole manuscript of the New Code as prepared in part by Hon. Hugh Dent, and completed under contract with the Michie Company, The Harrison Company, and the West Publishing Company.

Section 2. The Committee shall revise, amend, and correct, the manuscript so as to make it a harmonious body of law as nearly perfect as possible, and in doing this, they shall keep correct minutes of their proceedings to be signed by the Chairman of the committee, and returned with the manuscript so that their amendments and corrections may be correctly incorporated in the published Code.

Section 3. The Committee shall have authority to employ two law clerks who must be competent and well-qualified and who shall receive not exceeding Ten (10) Dollars a day each and also two stenographers who must be competent and well-qualified and who shall receive not exceeding Five (5) Dollars a day each. The members of the Committee shall receive Ten (10) Dollars per day, and the same mileage allowed by law to them as members of the

Legislature. The pay of the members of the Committee and the clerks shall be for the whole time they are actually engaged in the work for which they are appointed. Provided, they do not take any recess longer than three (3) days at a time.

Section 4. The Chairman of the Committee shall certify to the Auditor the amount due the members and clerks of the Committee who must draw his warrant therefor on the State Treasury.

Section 5. The Governor will designate some comfortable room in the Capitol, and have same suitably furnished and well-lighted for the use of the Committee, and the Secretary of State will furnish all necessary stationery, or things required by the Committee.

Section 6. The joint committee shall codify and incorporate in the manuscript Code all general Acts passed by the Legislature at this Session.

Section 7. The Secretary of State shall have printed in pamphlet form one thousand (1000) copies of the report showing the changes and corrections made for the use of the Legislature.

Section 8. Any vacancy occurring in the Senate membership shall be filled by the remaining members of the Senate on the Committee, and any vacancy occurring in the House Membership shall be filled by the remaining members of the House on the Committee.

Approved March 14, 1939.

No. 131)

(H. 266—Locke

AN ACT

To amend Section 1444 of the Code of Alabama, 1923.

Be it Enacted by the Legislature of Alabama:

Section 1. That Section 1444 of the Code of Alabama, 1923, be and the same is hereby amended to read as follows: "Section 1444. Certificate of probate judge for admission of patient; form and contents of. ----- When informed by the superintendent that the person can be received as a patient, the judge of probate shall examine witnesses, at least one of whom shall be a physician, and fully investigate the facts of the case, either with or without a jury, and either with or without the presence in court of the person, the grade of whose mental disqualification is under investigation, according to his discretion; and if the judge, or the jury, as the case may be, believe that the person is sufficiently defective mentally to be sent as a patient to a hospital for insane persons, the judge of probate shall make two copies of a certificate of mental disqualification, one copy of which shall be filed in his office and the other

he shall send with the patient to the hospital; which certificate shall read substantially as follows: I (A.B.), judge of probate of the county of _____, and the State of Alabama, do hereby certify that it having been alleged to me that C.D., a resident of this county, is insane, and that his (or her) own and the public welfare demand that he (or she) be sent to the hospital for insane persons for custody and treatment, pursuant to the statutory provisions in such cases, I have called before me the following credible witnesses (giving their names), and Dr. _____, a reputable physician, practicing medicine in the state and having examined them under oath and otherwise fully investigated the facts of the case, with the said C.D., present in court (or not as the case may be), I do hereby certify that sufficient proof has been adduced before me (or the jury) to satisfactorily show that the said C.D. is so defective mentally that he (or she) ought to be committed to the hospital for insane persons for safe-keeping and treatment. I further certify that satisfactory proof has been adduced before me (or the jury) that the said C.D. has (or has not) sufficient means to pay his (or her) expenses in the hospital. I therefore issue this certificate of mental disqualification and commit him (or her) to the _____ hospital at _____, according to instructions received from the superintendent, as indigent (or paying) patient. Given under my hand at _____, in the county and state aforesaid, this the _____ day of _____, in the year _____. (A.B.) Probate Judge. Provided, however, if said patient is entitled to admission to a hospital operated by the United States Veterans' Administration or other agency of the United States Government, the Judge of Probate, upon receipt of a certificate from the Veterans' Administration or such other agency showing that facilities are available and such person is eligible for care or treatment therein, may commit such person to said Veterans' Administration or other agency for care and treatment. Upon admission, such person shall be subject to the applicable regulations of the Veterans' Administration or other agency of the United States. The Chief Officer of any institution to which any person is admitted pursuant to commitment as provided in this Section, or under the law in effect at the time of such admission, shall have the same powers as are exercised by Superintendents of state hospitals for mental diseases in this State with respect to the retention, transfer, parole or discharge of the person so committed. The right of such person to appear and defend shall not be denied. The judgment or order of commitment by a court of competent jurisdiction of another state committing a person to the United States Veterans' Administration or other agency of the United States Government, or any institution operated by such agency, for care or treatment, shall have the same force and effect as to such person while in this State as in the State in which is situated the court entering such judgment or mak-

ing such order. Upon receipt of a certificate that facilities are available in any such institution operated by the United States for the care and treatment of any person committed to the Alabama Insane Hospitals or any other institution in this State, and that such person is eligible for such care or treatment, the Superintendent thereof is hereby authorized to cause the transfer of any such patient to the Veterans' Administration or other agency of the United States Government. Upon effecting any such transfer, the Superintendent shall notify the committing court thereof: provided, however, that no such person shall be so transferred if he be confined pursuant to conviction of any crime or misdemeanor or if he shall have been acquitted of any such charge solely on the ground of insanity. Any person transferred as provided in this Section shall be deemed to be committed to the Veterans' Administration or other agency of the United States Government pursuant to the original commitment the same as if he had been originally so committed.

Section 2. That all laws and parts of laws in conflict herewith are hereby repealed but all commitments heretofore made pursuant to the terms thereof shall remain in full force and effect subject to the provisions of this Act.

Section 3. The invalidity of any portion of this Act shall not affect the validity of any other portion thereof which can be given effect without such invalid part.

Section 4. This Act shall take effect immediately upon its approval by the Governor.

Approved March 10, 1939.

No. 135)

(H. 286—Sightler

AN ACT

To repeal an act entitled "An Act to make all persons in all counties of Alabama having a population of not less than seventy-five thousand and not more than one hundred thousand, according to the last or any subsequent Federal Census, except such persons as are by law exempt from road duty, liable to work on the public roads." Approved July 17th, 1931.

Be it Enacted by the Legislature of Alabama:

Section 1. That an act entitled "An Act to make all persons in all counties of Alabama having a population of not less than seventy-five thousand and not more than one hundred and ten thousand, according to the last or any subsequent Federal Census, except such persons as are by law exempt from road duty, liable to work on the public roads," approved July 17th, 1931, be and the same is hereby repealed.

Section 2. That this Act shall take effect immediate upon its approval by the Governor.

Approved March 10, 1939.

AN ACT

To repeal An Act entitled An Act to create, establish and regulate Inferior Courts in all precincts lying within or partly within all cities of the State of Alabama now having as many as 35,000 and less than 67,000 population, according to the last Federal Census, and in all cities that may hereafter have as many as 35,000 and less than 67,000 population, according to any subsequent Federal Census. Such courts to be in lieu of Justices of the Peace in said precincts and in lieu of all other courts heretofore created in lieu of Justices of the Peace in said precincts. To provide and define the jurisdiction and powers of such courts and the terms thereof; to provide for the judges and officers of such courts, their term of office and the manner of their selection and their powers, duties and compensation; to fix the fees and costs for such courts; to provide the rules of procedure for such courts and for the operation thereof; to provide for registering of its judgments and a lien of its judgments, and to abolish Justices of the Peace in such precincts, and to abolish courts heretofore created in lieu of such Justices of the Peace; and to provide for the transfer of the causes from the abolished courts to the courts created by this Act.

Be it Enacted by the Legislature of Alabama:

Section 1. That an Act entitled An Act to create, establish and regulate Inferior Courts in all precincts lying within or partly within all cities of the State of Alabama now having as many as 35,000 and less than 67,000 population, according to the last Federal Census, and in all cities that may hereafter have as many as 35,00 and less than 67,000 population, according to any subsequent Federal Census. Such courts to be in lieu of Justices of the Peace in said precincts and in lieu of all other courts heretofore created in lieu of Justices of the Peace in said precincts. To provide and define the jurisdiction and powers of such courts and the terms thereof; to provide for the judges and officers of such courts, their term of office and the manner of their selection and their powers, duties and compensation; to fix the fees and costs for such courts; to provide the rules of procedure for such courts and for the operation thereof; to provide for registering of the judgments and a lien of its judgments, and to abolish Justices of the Peace in such precincts, and to abolish courts heretofore created in lieu of such Justices of the Peace; and to provide for the transfer of the causes from the abolished courts to the courts created by this Act, approved February 5, 1931, be and the same is hereby repealed.

Approved March 10, 1939.

No. 139)

(S. 162—Tucker

AN ACT

To appropriate out of the General Fund of the State of Alabama from any moneys in said fund not otherwise appropriated **Four Hundred Thousand Dollars (\$400,000.00)** or so much thereof as may be necessary to the State Department of Corrections and Institutions to be expended by it during the remainder of the fiscal year 1938-39 for the maintenance of convicts.

Be it Enacted by the Legislature of Alabama:

Section 1. That there is hereby appropriated out of the General Fund of the State of Alabama from any moneys in said fund not otherwise appropriated **Four Hundred Thousand Dollars (\$400,000.00)** or so much thereof as may be necessary to the State Department of Corrections and Institutions to be expended by it during the remainder of the fiscal year 1938-39 for the maintenance of convicts.

Section 2. That this Act shall become effective upon its passage and approval by the Governor or its otherwise becoming a law.

Approved March 10, 1939.

No. 140)

(S. 90—Simpson

AN ACT

To adopt an official Coat of Arms for the State of Alabama.

Be it Enacted by the Legislature of Alabama:

Section 1. That in conformity with the practice of the Government of the United States and the several states of the Union, it is hereby decreed that Alabama shall have an official Coat of Arms which shall be as follows: a shield upon which is carried the flags of four of the five nations which have at various times held sovereignty over a part or the whole of what is now the State of Alabama, to wit: Spain, France, Great Britain and the Confederacy. The union binding these flags shall be the shield of the United States. The shield upon which the flags and shield of the United States are placed shall be supported on either side by an eagle. The crest of the Coat of Arms shall be a ship representing the "Badine" which brought the French colonists who established the first permanent white settlements in the State. Beneath the shield there shall be a scroll containing the sentence in Latin: "Audemus jura nostra defendere," the English interpretation of which is "We Dare Maintain Our Rights." The word "Alabama" shall appear beneath the State Motto.

Section 2. The Coat of Arms of Alabama as described in heraldic terms shall be as follows: Arms: Quarterly, the first azure three fleurs-de-lis or (for France); second quarterly first and fourth gules a tower triple towered or, second and third argent a lion rampant gules (for Spain); third azure a saltire argent and gules over all a cross of the last fimbriated of the second (for Great Britain); fourth gules of a saltire azure, fimbriated argent thirteen mullets of the last (for the Confederacy); at center inescutcheon chief azure pale argent and gules thirteen (for United States) Arms supported by two American Eagles displayed. Crest: A full rigged ship proper.

Section 3. Use of Coat of Arms. The official Coat of Arms of the State of Alabama shall be placed above the Speaker's stand in each House of the Alabama Legislature; in the office of the Governor of the State; in the State Department of Archives and History, and any other State department or institution; and shall be used for any other purpose conforming with the dignity of the Coat of Arms of the State upon approval of the Governor.

Approved March 14, 1939.

No. 141)

(S. 86—St. John

AN ACT

To validate elections heretofore held under the provisions of Articles 12 and 13 of the Alabama School Code or of any other law.

Be it Enacted by the Legislature of Alabama:

Section 1. All elections whether in school districts or in counties which have heretofore been held under the provisions of Articles 12 and 13 of the Alabama School Code or any other law; for the purpose of authorizing a special tax for any school purpose or for school purposes generally under the Constitution, which said elections resulted in a majority of the votes cast being in favor of the said tax and which said elections were irregular by reason of failure prior to the actual holding of the election to give notice thereof in a newspaper or by reason of any other irregularity, be and the same are hereby ratified and confirmed and given effect in all respects as if all provisions of law relating to such election had been duly and legally complied with and the said tax may be levied and collected accordingly, provided that the provisions of this section shall not apply to elections which have been in express terms held and declared illegal by the board of revenue or court of county commissioners prior to the passage of this act.

Section 2. This act shall take effect and become operative immediately upon its passage and approval by the Governor.

Approved March 14, 1939.

AN ACT

To create a County Board of Equalization in and for each of the sixty-seven Counties of this State: To provide for the manner of selecting the members of such Board: To provide for the appointment, the term of office and compensation of such members: To provide the powers, rights, authority and duties of the said County Boards of Equalization and the members thereof. To provide a secretary for each of said Boards of Equalization. To abolish the several County Boards of Review, as now or heretofore created, and to repeal all laws in conflict with this Act.

Be it Enacted by the Legislature of Alabama:

Section I. There is hereby created in each County in the State of Alabama, a County Board of Equalization, to consist of three members, each of whom shall have been a resident of the County for at least five years in which he is to serve.

Section II. Within thirty days after the passage of this Act, the Court of County Commissioners, or other governing body, the County Board of Education of each County, and all of the municipalities in each county, shall each submit in writing, to the State Commissioner of Revenue, the names of three persons, all of whom shall have been for at least five years residents of the County, and who are each owners of real estate subject to taxation located in the county for which they are appointed, and who are each qualified electors in said County, and who are, in the opinion of said nominating body, persons competent to serve as members of the County Board of Equalization. In those counties where there is no incorporated municipality the Court of County Commissioners or other governing body of said County shall nominate six persons as competent persons for appointment to membership on such Board of Equalization. From each group of three nominees, submitted by the County governing body and the County Board of Education, and from the total group of nominees submitted by the governing bodies of the municipalities, the Commissioner of Revenue, with the approval of the Governor, within thirty (30) days after receipt of such lists of nominees, shall appoint one person to membership on the County Board of Equalization, so that the membership of each of said Boards shall be composed of three members, one of whom was nominated by the governing body of the County, one by the County Board of Education, and one by the governing body of the incorporated municipalities in the County, except, however, that in those Counties having no incorporated municipality, two of the members of the said Board shall be selected from the six nominees of the County governing body. The members of the Several County Boards of Equalization appointed from the nominees as in this section provided shall hold office from the date of qualification, and their terms of office shall

expire on September 30, 1943. In all counties where the selection of the county personnel is governed by a merit or civil service law, the persons submitted by the County Board of Education, the County Commission or other governing body of the county and the municipalities of the county, when submitted as in this Act provided, the Director of Personnel of the county under the direction of the Personnel Board shall with all reasonable dispatch examine such persons in accordance with the merit or civil service law of the county and from such examination make up an eligible list and certify such list to the State Commissioner of Revenue and from such list the County Board of Equalization shall be named, naming one member from each group as in other counties.

Section III. During the month of August 1943, and during the month of August of each fourth year thereafter, the Court of County Commissioners, or other governing body of each County, the County Board of Education, and the governing body of the largest municipality in each County shall each submit in writing to the State Commissioner of Revenue the names of three persons, and the governing body of each other incorporated municipality within the County shall in like manner submit the name of one person, all of whom are residents of the County and who are each owners of taxable property which is located within this State and who are each qualified electors in said county and who are, in the opinion of said nominating body, persons competent to serve as members of the County Board of Equalization. In those counties where there is no incorporated municipality the Court of County Commissioners or other governing body of said County, shall nominate six persons as competent persons for appointment to membership on such Board of Equalization. From each group of three nominees, submitted by the County governing body and the County Board of Education, and from the total group of nominees submitted by the governing bodies of the municipalities, the Commissioner of Revenue, within thirty (30) days after receipt of such lists of nominees, with the approval of the Governor, shall appoint one person to membership on the County Board of Equalization so that the membership of said Board shall be composed of three members, one of whom was nominated by the governing body of the County, one by the County Board of Education and one by the governing body of the incorporated municipalities in the County, except, however, that in those Counties having no incorporated municipality, two of the three members of said Board shall be selected from the six nominees of the County governing body. The members of the several County Boards of Equalization appointed from the nominees as in this section provided shall hold office for four years, beginning October 1, 1943, and each fourth year thereafter.

Section IV. Each person appointed to membership on any County Board of Equalization shall, before entering upon the duties of such office, take and subscribe to the following oath, in addition to the oath required of regularly elected State and County officials: "I do solemnly swear that I will faithfully discharge the duties imposed upon me by law, as a member of the County Board of Equalization, and that I will adjust, equalize and fix the taxable value of all property listed for taxation and submitted for review to the Board of which I am a member, on a basis of its fair and reasonable market value to the best of my knowledge and ability, so help me God." Said oath, together with the other official oath required of such Board member shall be filed for record in the office of the Judge of Probate of the county in which such Board member is to serve.

Section V. Should any person appointed to membership of any Board of Equalization as herein created fail or refuse to take and subscribe to the oaths required by Section IV hereof, within five days after being notified of his appointment to membership on said Board, or shall, for any other reason herein enumerated become disqualified to serve as a member on said Board, or should a vacancy on any Board occur from death, resignation or any other cause, then the Commissioner of Revenue shall select from the remaining nominees on the list from which such original nominee was taken a person to fill the position to which such disqualified person was first appointed, or to fill the vacancy on said Board. Should the remaining nominees be, for any reason, disqualified to serve on said Board, then the Commissioner of Revenue shall request the proper nominating body to name three additional persons eligible to serve on said Board and from such additional nominees a person shall be selected to fill the vacancy occasioned by the disqualification of the original nominee or nominees or other vacancy. Any appointment to fill a vacancy on any Board of Equalization shall be for the unexpired term only.

Section VI. No member of any County Board of Equalization shall hold employment or office of profit with the United States, the State of Alabama, any County or other political subdivision of said State, or with any Board, department or other agency of the United States, of the State of Alabama, of any County or other political subdivision of said State or with any County School Board or with any municipality, while holding office as a member of said Board.

Section VIII. The County Tax Assessor shall be and serve as the Secretary of the County Board of Equalization but shall not receive any compensation for his services as such but have no vote nor voice in the government or business of said Board except as hereinabove provided.

Section IX. The annual term of service and compensation of the members of the several County Boards of Equalization, as created by this Act, shall be as follows: In those counties in which the total assessed value of all taxable property exceeds three hundred million dollars (\$300,000,000), according to the tax assessor's abstract of assessments for the year 1938, the members of the County Board of Equalization shall serve on a full-time basis for twelve months in the year and shall be paid at the rate of four thousand dollars (\$4,000) each, per annum, payable in monthly installments. In those counties in which the total assessed value of all taxable property exceeds two hundred million dollars (\$200,000,000) but does not exceed three hundred million dollars (\$300,000,000), according to the tax assessor's abstract of assessments for the year 1938, the members of the County Board of Equalization shall serve on a full-time basis for twelve months in the year and shall be paid at the rate of thirty-six hundred dollars (\$3,600) each per annum, payable in monthly installments. In those counties in which the total assessed value of all taxable property exceeds one hundred million dollars (\$100,000,000) but does not exceed two hundred million dollars (\$200,000,000), according to the tax assessor's abstract of assessments for the year 1938, the members of the County Board of Equalization shall serve on a full-time basis for twelve months in the year and shall be paid at the rate of three thousand dollars (\$3,000) each per annum, payable in monthly installments. In those counties in which the total assessed value of all taxable property exceeds fifty million dollars (\$50,000,000) but does not exceed one hundred million dollars (\$100,000,000), according to the tax assessor's abstract of assessments for the year 1938, the members of the County Board of Equalization shall serve during the months of March, April, June and July of each year and such other times as the members of the County Boards of Review have heretofore been required to serve and for such services shall be paid at the rate of one thousand dollars (\$1,000) each, per annum, payable in four monthly installments. In those Counties in which the total assessed value of all taxable property exceeds twenty-five million (\$25,000,000) dollars but does not exceed fifty million dollars (\$50,000,000), according to the tax assessor's abstract of assessments for the year 1938, the members of the County Board of Equalization shall serve during the months of March, April, June and July of each year and such other times as the members of the County Boards of Review have heretofore been required to serve and for such services shall be paid at the rate of eight hundred dollars (\$800) each per annum, payable in four monthly installments. In those Counties in which the total assessed value of all taxable property exceeds fifteen million (\$15,000,000) but does not exceed twenty-five million dollars (\$25,000,-

000), according to the tax assessor's abstract of assessments for the year 1938, the members of the County Board of Equalization shall serve during the months of March, April, June and July of each year, and such other times as the members of the County Boards of Review shall have heretofore been required to serve, and for such services shall be paid at the rate of six hundred dollars (\$600) each, per annum, payable in four monthly installments. In those counties in which the total assessed value of all taxable property exceeds ten million dollars (\$10,000,000) but does not exceed fifteen million dollars (\$15,000,000), according to the tax assessor's abstract of assessments for the year 1938, the members of the County Board of Equalization shall serve during the months of March, April, June and July of each year, and such other times as the members of the County Boards of Review have heretofore been required to serve and for such services shall be paid at the rate of five hundred dollars (\$500) each, per annum, payable in four monthly installments. In those counties in which the total assessed value of all taxable property does not exceed ten million (\$10,000,000) dollars, according to the tax assessor's abstract of assessments for the year 1938, the members of the County Board of Equalization shall serve during the months of March, April, June, and July of each year, and such other times as the members of the County Boards of Review have heretofore been required to serve and for such services shall be paid at the rate of five (\$5.00) dollars per day for the actual time served, but in no case shall the amount paid for such service exceed four hundred dollars (\$400.00) per annum to each member of said Board. In all Counties of this State members of County Boards of Equalization, County Tax Assessors, employees of the Department of Revenue including the Commissioner thereof, called as witness in an appeal by any tax payer from the rulings of the Board of Equalization or Department of Revenue on an assessment shall not claim fee from any Court, but such service shall be incident to his office.

Section X. The compensation of the members of the several County Boards of Equalization as provided for in section nine of this Act shall be paid one-third ($\frac{1}{3}$) by the State, one-third ($\frac{1}{3}$) by the county and one-third ($\frac{1}{3}$) by any municipality in the county in which the total assessed value of all taxable property is equal to or greater than fifty per cent (50%) of the total assessed value of all taxable property located in the county. In those counties where there is no city in which the total assessed value of the taxable property is equal to or greater than fifty per cent (50%) of the total taxable property of the county, then the compensation of the members of the County Board of Equalization, as provided in section nine hereof, shall be paid one-half ($\frac{1}{2}$) by the State and one-half ($\frac{1}{2}$) by the County.

Section XI. All payments for compensation of the members of the County Boards of Equalization as provided for in Section nine and ten hereof shall be made upon claim of the Board member, duly verified as other claims against the State, county or city, and approved by the State Commissioner of Revenue, and shall constitute preferred claims.

Section XII. It shall be the duty of the members of each Board of Equalization, as herein created, at the first meeting held after January first in each year to select one of its members to act as chairman of the Board of Equalization for the ensuing year and to make such rules and regulations as may be necessary to carry out the provisions of this Act as to the assessment and valuation of property for taxation. (b) The Board of Equalization shall have authority at any time to make such rules and regulations as it may deem necessary to carry out the provisions of this Act not in conflict with the provisions hereof.

Section XIII. It shall be the duty of the Boards of Equalization to inspect, review, revise and fix the value of all the property returned to or listed with the tax assessor for taxation each year; provided, however, nothing in this Act shall be construed to require the tax assessor or Boards of Equalization to value any property required by the law to be assessed for taxation by the State Department of Revenue. The majority of the Board of Equalization shall constitute a quorum of such board for the performance of the duties required herein; provided that at any time the State Department of Revenue shall deem it necessary, it may go or send or use agents or representatives into any county with authority to act in an advisory capacity and in conjunction with the Board of Equalization and perform such other duties, with respect to the valuation and assessment of property for taxation as may be required of them. Agents or representatives of the State Department of Revenue assigned to any county or counties for the purpose of advising with the Boards of Equalization with respect to valuing real and personal property for assessment for taxation, shall have the power and authority to inspect, review, value and assess any property subject to taxation and such agents or representatives are authorized to fix values for assessment, subject to the approval of the Board of Equalization of the County in which such property is located. (a) In cases where such agents or representatives have fixed a value for assessment such value must be entered on the tax return of the taxpayer showing day and date when value was fixed and such agents or representatives shall certify to all values fixed by him or them. (b) It shall be the duty of each such agent or representatives assigned for duty in a given county or counties, as soon as letters of protest are filed with the Board of Equalization to attempt to adjust, equalize and

settle said protest. To that end he shall notify as many of such protesting taxpayers, by mail at the address shown on the tax return, as he can reasonably interview to meet him at the Court house of the county on a given day, and others for the other days intervening prior to the first Monday in June, then and there to attempt to adjust such protest. If the taxpayer at such interview agrees with the tax agent on a valuation and consents in writing thereto on his return, such valuation shall be final unless the Board of Equalization shall disapprove the same and notify the taxpayer by mail at his address shown upon his return, of such disapproval and of the fixed date after the first Monday in June of that year when the Board of Equalization will hear such taxpayers on such assessment. (c) All protests filed within time, which it shall be impossible for the tax agent or agents assigned to a given county to notify to report for such an interview or having notified they fail to interview, and all protests of taxpayers who fail to report for such preliminary interview and all protests of taxpayers who so report and fail to agree upon a final valuation or whose agreed final valuation shall be disapproved by the Board of Equalization, shall be listed or docketed by the Board of Equalization for hearing by it. This list or docket shall be made up as nearly as may be in the order in which such protests were received by the Board of Equalization and shall be heard by the Board of Equalization substantially in the order so listed or docketed. At the hearing of these protests, beginning on the first Monday in June following the making of the assessments as herein elsewhere provided, the Board of Equalization shall accord each protesting taxpayers a reasonable time and opportunity within which to be heard, taking into consideration the total time available for hearing such protests, the number of protests pending, the amount and nature of the property involved in the given assessment and all other relevant circumstances. The Board of Equalization shall cause each protesting taxpayer to be notified by mail at his address shown upon his assessment, of the day and place when the Board proposes to hear such taxpayer and if he shall present himself on such day and not be heard, he shall be assigned another day certain for hearing and so on until he is heard. No taxpayer, agent, attorney, or adjuster shall be heard out of the order in which the protested assessment proposed to be heard appears, upon the list or docket of protests, if any other taxpayer, whose protest appears first on such list or docket is present and ready to be heard. (d) The duties herein imposed upon Board of Equalization are declared to be of prior and paramount importance and if any member of a Board of Equalization fails or refuses without good cause and legal excuse to attend upon and perform such duties, such failure or refusal shall constitute official misconduct and non-feasance in office and subject the offender to removal from

office. No salary or compensation shall be paid any member of a Board of Equalization for any part of the period commencing on the first Monday in June of each year during which he shall be required to sit as a member of such Board until he shall have first made and filed with the public officer, disbursing such salary or compensation, a sworn statement that during the period for which such salary or compensation is claimed, he has performed faithfully and to the best of his ability his duties as a member of the Board of Equalization. (e) Every agent or representative of the State Department of Revenue assigned to any county under the provisions of this Act shall file each month with the State Department of Revenue a sworn statement that he has performed faithfully and to the best of his ability the duties required of him hereunder before compensation for service is paid. (f) Immediately after January 1, of each year, the tax assessor shall deliver to the Board of Equalization all assessments as returned to him, and thereafter shall deliver all additional assessments returned to him. Such assessment sheet shall show the valuation fixed by the tax assessor and if such valuation be agreed to by the taxpayer, such taxpayer shall endorse on the assessment sheet valuation accepted.

____ Taxpayer, this _____ day of _____ 19____.
 If such valuation is satisfactory to the Board of Equalization, it shall endorse thereon: Approved _____ Board of Equalization and the date and signed by the Chairman such approved assessments shall be final and no appeal will lie therefrom.

Section XIV. When the assessor shall have completed the assessment, valuation and equalization work in his county as provided by law, he shall notify each member of the Board of Equalization and such board shall meet on the second Monday in March and sit at the courthouse of the county from day to day until their duties are completed, which shall not be later than the first Monday in April, and shall review, revise, correct and fix the assessment values made by the tax assessor by raising or lowering the assessment of any person, partnership, corporation or association, except such assessments as have been approved by the State Department of Revenue, as to any or all of the items of his assessment, in such manner as to secure the assessment of property at sixty per cent of its fair and reasonable market value. The majority of a Board of Equalization shall govern in fixing the value for assessment of all property before them for determination.

Section XV. It shall be the duty of the Board of Equalization to meet on the second Monday in March and sit as long as may be necessary to carefully examine and inspect all tax returns and assessments delivered to it by the county tax assessor. If the board finds that any taxpayer has neglected to make a return or has omitted from his return any property that should be returned,

it shall be its duty to make up a return upon the proper blank with a description of the property to be assessed, which property it shall then proceed to value and equalize in the same manner as other property is valued and equalized by it, and to the value thus placed thereon shall be added a penalty of ten per cent for failure of the owner of such property to properly return the same. The secretary of the Board shall by registered mail return receipt demanded, or in person give notice to the owner of any property which has been omitted from the tax return and has been assessed as provided in this Section.

Section XVI. Immediately upon the completion of the work of reviewing and adjusting assessed valuation under the provisions of this Act, the tax assessor shall give notice by publication once a week for two consecutive weeks in a newspaper published in the county, and if no newspaper is published in the county by posting notices in three public places in each precinct of the county, that the assessed valuations of all property listed for taxation have been fixed as provided by law and that the tax return lists showing thereon such assessed valuations are in his office and open for public inspection, and that the Board of Equalization will sit at the court house of the county, on the first Monday in June to consider such protests as may be filed by any taxpayer as herein provided, and that any taxpayer who is not satisfied with the valuations of his property as fixed and entered on the return lists as required herein, may file objections in writing to such assessed valuations with the secretary of said board, on or before the last Monday in April, and the taxpayer shall set out in such objections filed, the description of each item of property and his reason for making objections to the assessed valuation as placed thereon.

Section XVII. For the purpose of hearing objections filed in writing to any assessments or valuations fixed as provided for herein, the Board of Equalization shall sit at the court house in their respective counties on the first Monday in June in each year, from 9 A.M. to 5 P.M., and shall continue as long as may be necessary, provided such sitting shall not be extended beyond the second Monday in July, unless otherwise ordered by the State Department of Revenue, to dispose of all cases where objections to valuations or assessments have been filed in writing by any taxpayer, as provided in this Act. At such sitting the property owner may appear in person, or by agent or attorney and produce evidence in support of objections, if any, to any assessment or valuation heretofore made, and it shall be the duty of the Board of Review to examine under oath any complaining property owner, and to examine any other witnesses under oath as to the fair and reasonable market value of the property of such owner, and if it is found from the evidence that the valuation theretofore placed was not sixty per cent of the reasonable market value of such prop-

erty, whether more or less, then the said valuation or assessment shall be corrected so that it will show sixty per cent of a fair and reasonable market value and such corrected amount shall constitute the assessed value of such property. But if it is found from the evidence that the assessed value placed on the property was sixty per cent of a fair and reasonable market value thereof, the said value shall stand as the assessed value of said property, unless an appeal is taken therefrom, as provided by this Act.

Section XVIII. When the work of hearing objections against values fixed on taxable property shall have been completed by the Board of Equalization, the Tax Assessor shall enter upon the tax return lists the corrected values, if any changes have been made therein, which changed or altered value shall be the taxable value of the property or properties, unless an appeal is taken as herein provided, or unless otherwise ordered by the State Department of Revenue.

Section XIX. In cases where objection has been made by any taxpayer, his agent or attorney, as provided herein to the taxable value fixed by the Board of Equalization, on any property assessed against such taxpayer, and such objections have been overruled by said board, such taxpayer, his agent or attorney, may take an appeal from the action of said board in overruling his objection, to such valuation, to the Circuit Court of the county in which the taxpayer's property is located.

Section XX. All appeals from the rulings of the Board of Equalization fixing value of property shall be taken within thirty days after the final decision of said Board fixing the assessed valuation as provided in this Act. The taxpayer shall file notice of said appeal with the secretary of the Board of Equalization and with Clerk of the Circuit Court, and shall file bond to be filed with and approved by the Clerk of the Circuit Court, conditioned to pay all costs and the taxpayer or the State shall have the right to demand a trial by jury by filing a written demand therefor, within ten days after the appeal is taken. When an appeal is taken the taxpayer shall pay the taxes due as fixed for assessment for the preceding tax year before the same becomes delinquent, and upon failure to do so, the court upon motion *ex mero motu* must dismiss the appeal, unless at the time of taking the appeal the taxpayer has executed a supersedeas bond with sufficient sureties to be approved by the Clerk of the Circuit Court in double the amount of taxes, payable to the State of Alabama, conditioned to pay all taxes, interest and costs due the State, County or any agency or subdivision thereof. Such appeals shall be preferred cases. Provided that if from all the evidence the court be of the opinion that the valuation is either too high or too low, it shall render a judgment or decree fixing such valuation as it may deem fit. The Circuit Court shall so far as practicable

hear such appeals according to the general rules and procedure of courts, but when acting under this statute or acquiring jurisdiction as provided herein, it shall have no power to enjoin or suspend the collection of any taxes due. It shall decide all questions as to the legality of the assessment and the valuation of the property. Provided the original assessment sheet or a certified copy, showing the assessment by the Board of Equalization shall be sufficient appearance by the State and shall make out a prima facie case. From the judgment of the Circuit Court, either the State or the taxpayer may appeal direct to the Supreme Court of Alabama within thirty days of the rendition of such judgment. Upon such appeal to the Circuit Court or to the Supreme Court, the court shall ascertain and determine by its judgment or decree, the amount of tax which was invalid or which was excessive both as to the amount paid to the State, counties, county boards of education, municipalities or other governmental agencies receiving any part of such taxes, and thereupon, upon presentation of a certified copy of the judgment to the State Comptroller, it shall be the duty of the State Comptroller to draw his warrant on the State Treasurer in favor of such taxpayer for such an amount as the judgment of the court shall ascertain and declare has been erroneously paid to the State together with interest from the date of payment, and such warrant of the State Comptroller shall be paid out of any funds in the State Treasury as a current obligation of the year in which said refund is ordered. Upon presentation of a certified copy of such judgment to the Court of County Commissioners or other governing body of any county, or upon presentation of a certified copy of such judgment to a county board of education, or to the city council or other governing body of any municipality, or upon presentation of a certified copy to the governing body of any other agency of the State which may have received any part of said tax erroneously paid as determined by the judgment it shall be the duty of the said Court of County Commissioners or other governmental body of the county, or the county board of education or of the city council or other governmental body of a municipality, or of the governmental body of any other agency receiving any part of such taxes to draw its warrants on the Treasurer of such County, School Board, Municipality or other agency in favor of the taxpayer for such amount of said tax as may have been erroneously paid to such county, school board, municipality or other agency, together with interest from the date of payment, and such amount shall constitute a preferred claim of the current year in which said refund is ordered, and the respective treasurers are hereby required to refund such amounts received by said county, school board, municipality, or other agency, with interest as herein provided. In the event the judgment of the Court shall fix an assessment greater than

that upon which the taxes have been paid the taxes on the assessment appealed from; the Court shall fix and determine the amount of such excess and the taxpayer and the sureties on his appeal bond shall be adjudged to pay taxes due by reason of such increased assessment with interest from the date of judgment and the lien and priorities of the State and counties or other agencies shall apply to such additional amount as in other cases. The Court in fixing the assessment shall order the assessing authorities to apportion the same and the collecting authorities to collect taxes thereon for the several taxing subdivisions in the manner provided by law.

Section XXI. The failure of the tax assessor, Board of Equalization, or the State Department of Revenue, or its agents, to perform any of the duties of assessing and valuing property, or hearing objections to assessment valuations, at the time prescribed, or to complete such duties within the time prescribed by this Act, shall not invalidate any assessment or any act of such tax assessor, Board of Equalization or State Department of Revenue, or its agents, made or done after the expiration of such time. The duty of the tax assessor to inspect and examine real property in his county is directory and failure to do so shall not invalidate assessments and valuations made by the assessor or the Board of Equalization or the State Department of Revenue or its agents.

Section XXII. All Boards of Review heretofore created or existing shall, on the 30th day after the passage and approval of this Act, be abolished and for 30 days after the passage and approval of this Act the Boards of Review as constituted under Article III of an Act approved July 10, 1935, and appearing in 1935 General Acts, beginning on page 256, shall have the powers, authorities, duties and obligations conferred upon and given to such Boards of Review under said Article III of said Act approved July 10, 1935. Wherever the terms "Board of Review" or "County Boards of Review" are used in the revenue laws of this State the same shall mean the "County Board of Equalization."

Section XXIII. If any section, paragraph, sentence, clause, phrase, word or part of this Act be, for any reason adjudicated by any Court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder of this Act.

Section XXIV. Sections 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78 and 79 of an Act entitled 'An Act to provide for the general revenue of the State of Alabama,' approved July 10, 1935, and appearing in 1935 General Acts beginning on page 256, be and the same are hereby specifically repealed 30 days after the passage and approval of this Act.

Section XXV. All laws or parts of laws in conflict herewith are hereby repealed.

Section XXVI. Except as otherwise herein expressly provided this Act shall be effective immediately upon its passage and approval.

Approved March 15, 1939.

No. 144)

(S. 34—Johnston

AN ACT

To amend Sections 11 to 17 and 19 to 23, inclusive, and Section 25 of the Budget and Financial Control Act, Act No. 37, General Laws of Alabama, approved September 27, 1932, Acts of 1932, pp 35-48, entitled "An Act to better secure the administration of the financial affairs of the State and for that purpose to vest in the Governor certain powers and duties; to create the office, define the powers and duties and fix the salary of a State Comptroller; to provide for the transfer of the Department of Examiners and Accounts, its personnel, appropriations, records, equipment and other property, to the office of State Comptroller and to designate it as the Division of Departmental and County Audits; to abolish the Budget Commission, and to transfer the books, property and equipment of the Budget Commission to the office of the Comptroller; to relieve the State Auditor of certain duties and to provide for the transfer of certain employees and of unexpended balance of appropriations made for the salaries, together with certain books, records, documents, papers, office furniture and equipment and other property to the office of State Comptroller; to relieve the Board of Administration of certain duties and to provide for the transfer of certain employees and of unexpended balance of appropriations made for the salaries, together with certain books, records, documents, papers, office furniture and equipment and other property to the office of the State Comptroller; to provide for the transfer of the Secretary of the Senate and Clerk of the House of Representatives to the State Comptroller's Office during such time as the Legislature is not in session; to repeal certain definite, indefinite and contingent permanent appropriations; to establish a State Budget System; to provide for the lapsing of appropriations; to provide for the transmission of the budget to the Legislature; to provide a method for securing estimates of appropriations and for estimates of income of the State; to provide a tentative budget and to provide for hearings, on the same; to provide for transmission of the tentative budget to the Governor; to provide for prorating appropriations to prevent an over-draft or deficit in any fiscal year for which appropriations were made; to provide for allotting appropriations to departments, institutions, bureaus, boards, commissions, and other State agencies; to provide emergency appropriations; to provide that money received by departments, institutions, bureaus, boards, commissions or other state agencies shall be deposited in the Treasury and to provide how the same shall be held and paid out; to prevent the wrongful expending of appropriations and to provide penalties and punishment; to establish a fiscal year for the State and all state agencies; to provide when this Act shall go into effect and to provide for the repeal of certain laws in conflict with this act."

Be it Enacted by the Legislature of Alabama:

Section 1. That section 11 of the Budget and Financial Control Act, Act No. 37, General Laws of Alabama, approved Sep-

tember 27, 1932, Acts of 1932, pp 35-48, entitled "An Act to better secure the administration of the financial affairs of the State and for that purpose to vest in the Governor certain powers and duties; to create the office, define the powers and duties and fix the salary of a State Comptroller; to provide for the transfer of the Department of Examiners of Accounts, its personnel, appropriations, records, equipment and other property, to the office of the State Comptroller and to designate it as the Division of Departmental and County Audits; to abolish the budget Commission, and to transfer the books, property and equipment of the Budget Commission to the office of the Comptroller; to relieve the State Auditor of certain duties and to provide for the transfer of certain employees and of unexpended balance of appropriations made for the salaries, together with certain books, records, documents, papers, office furniture and equipment and other property to the office of State Comptroller; to relieve the Board of Administration of certain duties and to provide for the transfer of certain employees and of unexpended balance of appropriations made for the salaries, together with certain books, records, documents, papers, office furniture and equipment and other property to the office of the State Comptroller; to provide for the transfer of the Secretary of the Senate and Clerk of the House of Representatives to the State Comptroller's office during such time as the Legislature is not in session; to repeal certain definite, indefinite and contingent permanent appropriations; to establish a State Budget System; to provide for the lapsing of appropriations; to provide for the transmission of the budget to the Legislature; to provide a method for securing estimates of appropriations and for estimates of income of the State; to provide a tentative budget and to provide for hearings on the same; to provide for transmission of the tentative budget to the Governor; to provide for prorating appropriation to prevent an overdraft or deficit in any fiscal year for which appropriations are made; to provide for allotting appropriations to departments, institutions, bureaus, boards, commission and other state agencies; to provide emergency appropriations; to provide that money received by departments, institutions, bureaus, boards, commissions or other state agencies shall be deposited in the Treasury and to provide how the same shall be held and paid out; to prevent the wrongful expending of appropriations and to provide penalties and punishment; to establish a fiscal year for the State and all state agencies; to provide when this act shall go into effect and to provide for the repeal of certain laws in conflict with this act", be and it hereby is amended to read as follows: "Section 11. TRANSMISSION OF THE BUDGET TO THE LEGISLATURE. Within thirty days after the convention of each regular session of the Legislature, the Governor shall transmit to the Legislature

a document to be known as a budget setting forth his financial program for each of the fiscal years which will have begun before the next succeeding regular session of the Legislature (hereinafter referred to as "budget years," regardless of the number thereof) and having the character and scope hereinafter set forth."

Section 2. That Section 12 of said Budget and Financial Control Act be and it hereby is amended to read as follows: "Section 12. FORM AND CONTENTS. The budget shall consist of three parts, the nature and contents of which shall be as follows: Part 1 shall consist of the Governor's budget message, in which he shall set forth: (1) his program for meeting all the expenditure needs of the government for each of the budget years, indicating the fund, general or special, from which such expenditures are to be made and the means through which such expenditures are to be financed; (2) financial statements giving in summary form: (a) the condition of the Treasury at the end of the last completed fiscal year, the estimated condition of the Treasury at the end of the fiscal year in progress, and the estimated condition of the Treasury at the end of each of the budget years if his budget proposals are to be put into effect; (b) statements showing the bonded indebtedness of the government, debt authorized and unissued, debt redemption and interest requirements and the condition of the sinking funds, if any; (c) a summary of appropriations recommended for each of the budget years for each department, board, bureau, commission, agency, office and institution of the State and for the government as a whole, in comparison with the actual expenditures for each of the completed fiscal years covered by the last preceding budget and the estimated expenditures for the fiscal year in progress; (d) a summary of the revenue, classified according to sources, estimated to be received by the government during each of the budget years, in comparison with the actual revenue received by the government during each of the completed fiscal years covered by the last preceding budget and the estimated income for the fiscal year in progress; and (e) such other financial statements, data and comments as in his opinion are necessary or desirable in order to make known in all practicable detail the financial condition and operation of the government and the effect that the budget as proposed by him will have on such condition and operation. If the estimated revenues for the budget years plus the estimated amounts in the Treasury at the close of the fiscal year in progress are less than the aggregate appropriations recommended for the budget years, the Governor shall make recommendation to the Legislature with respect to the manner in which such deficit shall be met, whether by the imposition of new taxes, increased rates in existing taxes or otherwise; and, if the revenues are more

than the aggregate appropriations recommended, he shall make such recommendations with respect to the application of such surplus to the reduction of debt, to reductions in taxation or to such other action as in his opinion is in the public interest. Part II shall present in detail for each of the budget years his recommendations for appropriations to meet the expenditure needs of the government from each fund, general or special, in comparison with the actual expenditures for each of said purposes during the completed fiscal years covered by the last preceding budget and the estimated expenditures for the fiscal year in progress, classified by departments, boards, bureaus, commissions, agencies, officers, and institutions of the State and indicating for each the appropriations recommended for meeting the cost of (a) salaries (b) travel and per diem expenses (c) administration, operation and maintenance each item of expenditure, actual or estimated, and appropriations recommended shall be supported by detailed statements showing the actual and estimated expenditures and appropriations classified according to a standard scheme of classification to be prescribed by the Department of Finance and (d) the purchase of land, public improvements and other capital outlays in connection therewith. Part III shall embrace a proposed appropriation bill and a proposed revenue bill or bills for the purpose of proposing in statutory form the recommendations made in Parts I and II. Such appropriation bill or bills shall indicate the funds, general or special from which such appropriations shall be made, but such appropriations need not be in greater detail than to indicate the total appropriation to be made for each department, board, bureau, commission, agency, office and institution of the State for each budget year for: (a) salaries (b) travel and per diem expenses (c) administration, operation, and maintenance and (d) the cost of land, public improvements and other capital outlays, itemized by the specific projects or classes of projects of the same general character.

Section 3. That section 13 of said Budget and Financial Control Act be and it hereby is amended to read as follows: "Section 13. ESTIMATES OF APPROPRIATIONS. On or before the first day of the third month next preceding each regular session of the Legislature, each department board, bureau, commission, agency, office and institution of the State shall transmit to the Department of Finance on blanks to be furnished by it, estimates of their expenditure requirements for each budget year, classified so as to distinguish between expenditures estimated for (a) salaries (b) travel and per diem expenses (c) administration, operation and maintenance and (d) cost of each project involving the purchase of land or the making of a public improvement or a capital outlay of a permanent character, together with such sup-

porting data and explanations as may be called for by the Department of Finance. In case of the failure of any department, board, bureau, commission, agency, office or institution of the State to submit such estimate within the time above specified, the Governor shall cause to be prepared such estimates for such department board, bureau, commission, agency, office or institution of the State as in his opinion are reasonable and proper.

Section 4. That Section 14 of said Budget and Financial Control Act be and it hereby is amended to read as follows: "Section 14. **ESTIMATES OF INCOME.** On or before the first day of the third month next preceding each regular session of the Legislature, the Department of Finance shall prepare an estimate of the total income of the government for each budget year, in which the several items of income shall be listed and classified according to source or character and by departments, boards, bureaus, commission, agencies, officers and institutions of the State producing such funds and in which such items shall be compared with the income actually received during the completed fiscal years covered by the next preceding budget and the estimated income to be received during the fiscal year then in progress."

Section 5. That Section 15 of said Budget and Financial Control Act be and it hereby is amended to read as follows: "Section 15. **TENTATIVE BUDGET.** Upon the receipt of the estimates of expenditure requirements called for by Section 13, as amended, and the preparation of the estimates of income called for by Section 14, as amended, and not later than the first day of the second month preceding each regular session of the Legislature, the Department of Finance shall prepare a tentative budget conforming as to scope, contents and character to the requirements of Section 12, as amended, and containing the estimates of expenditure and revenue called for by Sections 13 and 14, as amended, which tentative budget shall be transmitted to the Governor. All facts relating to past receipts and expenditures shall be certified as correct and accurate by the Comptroller in the Department of Finance."

Section 6. That Section 16 of said Budget and Financial Control Act be and it hereby is amended to read as follows: "Section 16. **HEARINGS ON TENTATIVE BUDGET.** The Governor shall, upon receipt by him of the tentative budget provided for by Section 15, as amended, make provision for public hearings thereon not later than two weeks prior to the convening of the next ensuing regular session of the Legislature. To any such public hearings on the tentative budget the Governor shall extend invitations to and may require the attendance of the heads of all departments, boards, bureaus, commissions, agencies, officers, and institutions of the State and other persons

receiving or requesting State funds, and the giving by them of such explanations and suggestions as they may be called upon to give or as they may desire to offer with respect to the items of requested appropriations in which they are interested. He shall also extend invitations and may require the attendance of the Budget Officer and the Comptroller and the giving by them of any information or data pertinent to the proposed budget. The Governor shall also extend invitations to the Chairman of the Appropriation Committee of the House and the chairman of the Finance and Taxation Committee of the Senate of the Legislature which is then in office to be present at such hearings and to participate in such hearings through the asking of questions or the expression of opinions with regard to the items of the tentative budget. The Governor shall also extend a like invitation to the Governor-elect if such there be. The Chairman of said Committees while sitting at such hearings, shall hold the offices of budget advisors and shall receive a per diem of ten dollars for each day in attendance at such hearings and actual travel expenses not exceeding those allowed to State employees. If either Chairman shall be unable to attend, the next ranking member of his Committee shall act in his place and receive the same compensation and expenses."

Section 7. That Section 17 of said Budget and Financial Control Act be and it hereby is amended to read as follows: "Section 17. FORMULATION OF THE BUDGET. After such public hearings and after his inauguration (if the Governor who will hold office during all or a majority of the time to which the proposed budget relates has not been inaugurated at the time of such public hearing) the Governor shall proceed to the formulation of the budget provided for in sections 11 and 12, as amended. In doing so he shall give such weight to the estimates of income prepared by the Department of Finance, to the estimates of expenditure requirements submitted by the departments, boards, bureaus, Commissions, agencies, offices, and institutions of the State to the tentative budget prepared by the department of Finance and to the testimony elicited at the hearing thereon as he deems proper; but the proposals contained in the budget shall represent his judgment and recommendations with respect to the provisions to be made for meeting the revenue and expenditure needs of the government for each of the budget years."

Section 8. That Section 19 of said Budget and Financial Control Act be and it hereby is amended to read as follows: "Section 19 APPROPRIATIONS. No appropriations made by the Legislature shall be available for expenditures until allotted as provided for in Section 20, as amended. All appropriations now or hereafter

made except per capita appropriations now in force or hereafter made to eleemosynary and correctional institutions and the Alabama School for the Deaf and Blind, located at Talladega, Alabama, which appropriations shall remain in full force and effect and be payable and disbursed as now provided by law are hereby declared to be maximum, conditional and proportionate appropriations, the purpose being to make appropriations payable in full in the amounts named only in the event that the estimated budget resources during each budget year of the period are sufficient to pay all of the appropriations for such year in full. The Governor shall restrict allotments to prevent an overdraft or deficit in any fiscal year for which appropriations are made by prorating without discrimination against any department, board, bureau, commission, agency, office or institution of the State, the available revenues among the various departments, boards, bureaus, commissions, agencies, offices, and institutions of the State. In other words, said appropriations shall be payable in such proportion as the total sum of all appropriations bears to the total revenues estimated by the Department of Finance as available in each of said fiscal years. The purpose of this provision is to insure that there shall be no overdraft or deficit in the several funds of the State at the end of any fiscal year, and the Governor is directed and required so to administer this Act as to prevent any such overdraft or deficit."

Section 9. That Section 20 of said Budget and Financial Control Act be and it hereby is amended to read as follows: "Section 20. ALLOTMENTS. Before an appropriation for any purpose to any department, board, bureau, commission, agency, office or institution of the State shall become available, there shall be submitted to the Department of Finance not less than twenty days before the expiration of the last period for which an allotment has been or shall have been made, a requisition for an allotment of the amount estimated to be necessary to carry on its work during the period for which allotments are made. Allotments shall be made for such length of time as may be determined to be appropriate and convenient by the Department of Finance, with the approval of the Governor, but no allotment (except for the acquisition of land, permanent improvements or other capital projects) shall, in any event, be for a period of longer than three months. Such requisition for an allotment shall contain such information and data and be in such detail as may be required by the Department of Finance. The Department of Finance shall examine such requisition and, with the approval of the Governor, shall make such allotment, or modification thereof, as may be deemed necessary, but the total amount of annual appropriations to any department, board, bureau, commission, agency, office or institution of the State shall not be reduced except proportionately as provided for in Section

19, as amended. The Department of Finance shall submit copies of each allotment thus approved to the head of the department, board, bureau, commission, agency, office, or institution of the State for which such allotment shall have been made. The Comptroller in the Department of Finance shall set up such allotment on his books and be governed accordingly in his control of expenditures. Allotments of appropriations made for the acquisition of land, permanent improvements, and other capital projects may, however, be allotted in one amount by major classes or projects for which they are expendable without regard to allotment periods. Any allotments may be subsequently modified by the Department of Finance, with the approval of the Governor, either upon the written request of the head of the department, board, bureau, commission, agency, office or institution of the State concerned or upon the initiative of the Department of Finance or the Governor; and notice of such modification shall be given and such modification shall be set upon the books of said Comptroller in the same way as in the case of original allotments."

Section 10. That Section 21 of said Budget and Financial Control Act be and it hereby is amended to read as follows: "Section 21. DEPARTMENTAL AND INSTITUTIONAL RECEIPTS. All fees, receipts, and income collected or received by any department, board, bureau, commission, agency, or office or institution of the State shall be paid into the State Treasury or deposited in an approved State depository to the credit of the general fund of the State of Alabama or to the credit of a special fund if the latter is required by law. No such payment or deposit shall be subject to withdrawal by any such department, board, bureau, commission, agency, office or institution, and, all appropriations made to any such department, board, bureau, commission, agency, office or institution shall be specified amounts and shall be subject to allotment as herein above provided. Anything herein to the contrary notwithstanding, however, this Act shall not apply to the fees, receipts and income (other than appropriations) of the Department of Conservation, the Department of Agriculture and Industries, or any educational, correctional or eleemosynary institution or to any endowment or trust fund or gifts to any such institutions or to the income from such endowments or trust funds, or to private funds belonging to students or inmates of such institutions, nor shall such funds be subject to any allotment under this Act or be taken into consideration in making any allotment or prorating of appropriations under this Act, and all appropriations made to any such institutions are hereby declared to be in addition to such fees, receipts and other income, and all allotments from such appropriations shall be paid over to such institution, and when such allotments are received by such institutions, the same shall be deposited

in any bank or banks in the State of Alabama, which have been duly designated and qualified as State depositories, for the use and benefit of such institution, and such funds shall be available only on the check of such institution depositing them, which is hereby authorized to withdraw such funds at its discretion."

Section 11. That Section 22 of said Budget and Financial Control Act be and it hereby is amended to read as follows: "Section 22. LAPSING OF APPROPRIATIONS. All unencumbered balances of all appropriations shall revert to the State Treasury at the end of each fiscal year and to the credit of the General Fund or the Special Fund from which the appropriation or appropriations were made. Appropriations for the purchase of land or the erection of buildings or new constructions shall continue in force until the attainment of the object or the completion of the work for which such appropriations are made."

Section 12. That Section 23 of said Budget and Financial Control Act be and it hereby is amended to read as follows: "Section 23. EMERGENCY APPROPRIATIONS AND THE METHOD OF THEIR USE. To the end that all expenses of the State may be brought and kept within the budget, the budget appropriation bills shall contain a specific sum or sums as an emergency appropriation or appropriations. Such sum shall not, however, exceed 2 per cent of the total amount appropriated by such bill. The manner of allotment of such emergency appropriation shall be as follows: Any department, board, bureau, commission, agency, office or institution of the State or any person or persons in charge of any activity in which the State is interested, desiring an allotment out of such appropriation, shall present such request in writing to the Department of Finance with such information as it may require, and, such request shall be handled and allotments may be made pursuant thereto as in the case of regular allotments. Such allotments shall be made only for any purpose authorized by law for which no specific appropriation has been made or for which inadvertently an insufficient appropriation has been made.

Section 13. That Section 25 of the Budget and Financial Control Act be and it hereby is amended to read as follows: "Section 25. PENALTIES AND PUNISHMENT FOR VIOLATIONS. A wilful and knowing refusal to perform any of the requirements of this Act or a wilful and knowing refusal to perform any rule or requirement or request of the Governor, Director of Finance or the Budget Officer made pursuant to or under authority of this Act, by any trustee, commissioner, director, manager, building committee, or other officer or person connected with any department, board, bureau, commission, agency, office or institution of the State, shall subject the offender to a penalty of two hundred and fifty dollars (\$250) to be recovered in an action instituted in the

Circuit Court of Montgomery County by the Attorney General for the use of the State of Alabama and shall also constitute a misdemeanor, punishable by fine or imprisonment, or both, in the discretion of the court, and shall subject such offender to dismissal from office by the person, department, board, bureau, commission, agency, office, or institution of the State under which such offender holds office or appointment and in accordance with the provisions of any law relating to the selection and classification of State employees generally to the extent to which such law shall be applicable. If such offender be an officer elected by vote of the people, such offense shall be sufficient cause to subject the offender to impeachment. A refusal to perform any requirement of this Act or an improper or illegal performance of any requirement of this Act shall subject the Budget Officer or the Director of Finance to a penalty of five hundred dollars (\$500) to be recovered in an action instituted in the Circuit Court of Montgomery by the Attorney General for the use of the State of Alabama, and it shall also constitute a felony. A refusal to perform any of the requirements of this Act, or an improper or illegal performance of any requirement of this Act by the Governor, shall make him subject to impeachment."

Section 13-A. There is hereby appropriated out of the State Treasury such monies as may be necessary to carry out the provisions of this Act, and to pay the salaries provided for and expenses incurred hereunder.

Section 14. If any provision of this Act or its application to any person, situation or circumstance shall be adjudged, invalid, such adjudication shall not affect the other provisions of this Act or the application of the provisions with respect to which such adjudication was made to any other person, situation or circumstance.

Section 15. All laws and parts of laws in conflict with any provisions of this Act, are, to the extent of such conflict, hereby repealed.

Approved March 16, 1939.

No. 145)

AN ACT

(S.53—Poole

To create a State Board of Agriculture and Industries, to prescribe the composition of such Board and the appointment and terms of office of its members, to transfer to said Board all of the duties and authority now vested in the State Board of Agriculture and to provide that the members of said Board shall each receive the same compensation and allowances as now provided for members of the State Board of Agriculture, and to abolish the State Board of Agriculture.

Be it Enacted by the Legislature of Alabama:

Section 1. The State Board of Agriculture and Industries is hereby created and shall consist of the Governor, as Ex Officio

Chairman, the Commissioner of Agriculture and Industries, the Director of Extension Service of the Alabama Polytechnic Institute, four outstanding farmers and three outstanding leaders of industry.

Section 2. The four farmer members and the three Industry members shall be appointed by the Governor, and confirmed by the Senate, provided that no two of the farmer members shall reside in the same Congressional District of the State, provided that no two of the Industry Members shall reside in the same Congressional District of the State. That within ninety days after the passage and approval of this Act the Governor shall appoint the members of this Board who shall constitute said Board during the Governor's tenure of office and until their successors are appointed and qualified, and thereafter the Governor shall appoint the members of said State Board of Agriculture and Industries for and only during the tenure of office of the Governor making the appointment and until the successors are appointed and qualified.

Section 3. There is hereby transferred to and vested in the State Board of Agriculture and Industries all of the duties, powers and authority now vested in the State Board of Agriculture. Each member of the State Board of Agriculture and Industry shall receive the same compensation and be entitled to the same allowances as now provided for members of the State Board of Agriculture.

Section 4. The State Board of Agriculture be and the same is hereby abolished and all laws and parts of laws in conflict with this Act are hereby repealed.

Approved March 17, 1939.

No. 146)

(S.61—Cooper

AN ACT

To appropriate the sum of seventy-five thousand dollars (\$75,000) annually for a period of four years, beginning May 1, 1939, forty thousand dollars (\$40,000) of said sum to be appropriated out of the general fund in the State treasury and thirty-five thousand dollars, (\$35,000) of said sum to be appropriated out of the Agricultural Fund in the State treasury, to be used to match Federal funds in paying indemnities to owners of cattle that react to tuberculosis, para-tuberculosis or Bang's disease tests and are condemned under the Federal-State cooperative programs for combating or eradicating these diseases during said period.

Be it Enacted by the Legislature of Alabama:

Section 1. That the sum of seventy-five thousand dollars (\$75,000) annually for a period of four years or so much thereof as may be necessary, be and the same is hereby appropriated, to

match Federal funds for the purpose of indemnifying owners of cattle which have been condemned and slaughtered, after having reacted to the test for tuberculosis, para-tuberculosis or Bang's disease as prescribed by the U. S. Bureau of Animal Industry rules and regulations, under the provisions of the Federal-State cooperation programs for combating or eradicating those diseases. Forty thousand dollars (\$40,000) of said sum shall be paid out of the general fund in the State treasury, and thirty-five thousand dollars (\$35,000) of said sum shall be paid out of the Agricultural Fund in the State treasury upon requisition signed by the State Veterinarian, to which shall be attached a certified copy of the appraisal of the cattle condemned and slaughtered, and the State Veterinarian's certificate that the condemned cattle have been slaughtered.

Section 2. Before authorizing the slaughter of reacting animals they shall be appraised by a duly commissioned representative of the State Veterinarian or a cooperating representative of the U. S. Bureau of Animal Industry duly commissioned by said State Veterinarian. If the owner shall refuse to accept such appraisal, the animals shall be appraised by three competent and disinterested appraisers, one to be selected by the duly commissioned representative of the State Veterinarian or the U. S. Bureau of Animal industry, duly commissioned by the State Veterinarian; one by the owner and these two to select a third; the appraisal to be based on the value of the animal at the time the animals are condemned for slaughter; and, provided further that the State is to pay not to exceed one-third of the difference between the appraisal and salvage values of the animal, and provided further, that in no event shall the combined amount received from the State and Federal Government exceed twenty-five (\$25.00) Dollars per head for grade cattle and Fifty (\$50.00) Dollars per head for registered pure bred cattle. Provided, however, that no cow shall be subject to any tests required under the terms of this Act within (45) forty-five days of or (45) forty-five days after calving.

Section 3. The Commissioner of Agriculture and Industries shall have power and it shall be his duty to make and promulgate regulations relating to the control of tuberculosis, para-tuberculosis and Bang's disease.

Section 4. That this Act shall take effect and be in force from and after May 1, 1939.

Approved March 17, 1939.

AN ACT

To declare the necessity of creating governmental subdivisions of the State, to be known as "soil conservation districts" and making them bodies corporate and politic, to engage in conserving soil resources and preventing and controlling soil erosion; to establish the state soil conservation committee, and to define its powers, duties, and privileges; to provide for the creation of soil conservation districts; to provide for the appointment, qualifications, and tenure of supervisors and to define their powers, duties, and privileges; to define the powers and duties of soil conservation districts, and to provide for the exercise of such powers, including the power to acquire property by purchase, gift, and otherwise; to empower such districts to adopt programs and regulations for the discontinuance of land-use practices contributing to soil wastage and soil erosion, and the adoption and carrying out of soil-conserving land-use practices, and to provide for the enforcements of such programs and regulations; to provide for the discontinuance of such soil conservation districts; to provide for financial assistance to such soil conservation districts, making an appropriation for that purpose and for otherwise effectuating the provisions of this Act.

Be it Enacted by the Legislature of Alabama:

Section 1. SHORT TITLE. This act may be known and cited as the soil conservation districts law.

Section 2. LEGISLATIVE DETERMINATIONS, AND DECLARATION OF POLICY. It is hereby declared, as a matter of legislative determination— A. The condition.—That the farm, forest and grazing lands of the State of Alabama are among the basic assets of the State and that the preservation of these lands is necessary to protect and promote the health, safety, and general welfare of its people; that in proper land-use practices have caused and have contributed to, and are now causing and contributing to, a progressively more serious erosion of the farm, forest and grazing lands of this State by wind and water. B. The consequences.—That the consequences of such soil erosion are the silting and sedimentation of stream channels, reservoirs, dams, ditches, and harbors; the loss of fertile soil material, the reduction in productivity or outright ruin of rich bottom lands by overwash of poor subsoil material, sand, and gravel and the deterioration of soil and its fertility. C. The appropriate corrective methods.—That to conserve soil resources and control and prevent soil erosion, it is necessary that land-use practices contributing to soil wastage and soil erosion be discouraged and discontinued, and appropriate soil-conserving land-use practices be adopted and carried out. D. Declaration of policy.—It is hereby declared to be the policy of the legislature to provide for the conservation of the soil and soil resources of this State, and for the control and prevention of soil erosion, and thereby to preserve natural resources, control floods, prevent impairment of dams and reservoirs, assist

in maintaining the navigability of rivers and harbors, preserve wildlife, protect the tax base, protect public lands, and protect and promote the health, safety, and general welfare of the people of this State.

Section 3. DEFINITIONS. Wherever used or referred to in this act, unless a different meaning clearly appears from the context: (1) "District" or "soil conservation district" means a governmental subdivision of this State, and a public body corporate and politic organized in accordance with the provisions of this act, for the purposes, with the powers, and subject to the restrictions hereinafter set forth. (2) "Supervisor" means one of the members of the governing body of a district, appointed in accordance with the provisions of this Act. (3) "Committee" or "state soil conservation committee" means the agency created in section 4 of this act. (4) "Petition" means a petition filed under the provisions of a sub-section A of section 5 of this act for the creation of a district. (5) "State" means the State of Alabama. (6) "Agency of this State" includes the government of this State and any subdivision, agency, or instrumentality, corporate or otherwise, of the government of this State. (7) "United States" or "agencies of the United States" includes the United States of America, the Soil Conservation Service of the United States Department of Agriculture, and any other agency or instrumentality, corporate or otherwise, of the United States of America. (8) "Government" or "governmental" includes the government of this State, the Government of the United States, and any sub-division, agency or instrumentality, corporate or otherwise, of either of them. (9) "Landowner" or "owner of land" includes any person, firm or corporation who shall hold legal or equitable title to any farm, forest, or grazing lands lying within a district organized under the provisions of this act. (10) "Due notice" means notice published at least twice, with an interval of at least 7 days between the two publication dates, in a newspaper or other publication of general circulation within the appropriate area, or if no such publication of general circulation be available, by posting at least three (3) public places in each county lying in whole or in part within the designated area. At any hearing held pursuant to such notice, at the time and place designated in such notice, adjournment may be made from time to time without the necessity of renewing such notice for such adjourned dates. (11) "Land occupier" or "occupier of land" includes any person, firm, or corporation who shall be in possession of, any lands lying within a district organized under the provisions of this act, whether as lessee, renter, tenant, or owner.

Section 4. STATE SOIL CONSERVATION COMMITTEE
A. There is hereby established, to serve as an agency of the State and to perform the functions conferred upon it in this act, the State soil

conservation committee. This committee shall consist of three (3) persons, namely: the director of the State Extension Service; the Director of the State Agricultural Experiment Station; and the Supervisor of Vocational Agricultural Education. The committee shall keep a record of its official actions, shall adopt a seal, which seal shall be judicially noticed, and may perform such acts, hold such public hearings, and promulgate such rules and regulations as may be necessary for the execution of its functions under this act. B. The State soil conservation committee may employ an administrative officer and such other agents and employees, permanent and temporary, as it may require, and shall determine their qualifications, duties, and compensation. The committee may call upon the attorney general of the State for such legal services as it may require, or may employ its own counsel and legal staff. It shall have authority to delegate to its chairman, to one or more of its members, or to one or more agents or employees, such powers and duties as it may deem proper. It shall be supplied with suitable office accommodations at the seat of the State agricultural college, and shall be furnished with the necessary supplies and equipment. Upon request of the committee, for the purpose of carrying out any of its functions, the supervising officer of any State agency, or of any State institution of learning shall, insofar as may be possible under available appropriations, and having due regard to the needs of the agency to which the request is directed, assign or detail to the committee members of the staff or personnel of such agency or institution of learning, and make such special reports, surveys, or studies as the committee may request. C. The committee shall designate its chairman, and may, from time to time, change such designation. A member of the committee shall hold office so long as he shall retain the office by virtue of which he shall be serving on the committee. A majority of the committee shall constitute a quorum, and the concurrence of a majority in any matter within their duties shall be required for its determination. The chairman and members of the committee shall receive no compensation for their services on the committee, but shall be entitled to expenses, including traveling expenses, necessarily incurred in the discharge of their duties on the committee. The committee shall provide for the execution of surety bonds for all employees and officers who shall be entrusted with funds or property; shall provide for the keeping of a full and accurate record of all proceedings and of all resolutions, regulations, and orders issued or adopted; and shall provide for an annual audit of the accounts of receipts and disbursements. D. In addition to the duties and powers hereinafter conferred upon the State soil conservation committee, it shall have the following duties and powers: (1) To offer such assistance as may be appropriate to the supervisors of soil conservation districts, organized as provided

hereinafter, in the carrying out of any of their powers and programs. (2) To keep the supervisors of each of the several districts organized under the provisions of this act informed of the activities and experience of all other districts organized hereunder, and to facilitate an interchange of advice and experience between such districts and cooperation between them. (3) To coordinate the programs of the several soil conservation districts organized hereunder so far as this may be done by advice and consultation. (4) To secure the cooperation and assistance of the United States and any of its agencies, and of agencies of this State, in the work of such districts. (5) To disseminate information throughout the State concerning the activities and programs of the soil conservation districts organized hereunder, and to encourage the formation of such districts in areas where their organization is desirable.

Section 5. CREATION OF SOIL CONSERVATION DISTRICTS. A. Any twenty-five (25) owners of land lying within the limits of the territory proposed to be organized into a district may file a petition with the State soil conservation committee asking that a soil conservation district be organized to function in the territory described in the petition. Such petition shall set forth: (1) The proposed name of said district; (2) That there is need, in the interest of the public health, safety, and welfare, for a soil conservation district to function in the territory described in the petition; (3) A description of the territory proposed to be organized as a district, which description shall not be required to be given by metes and bounds or by legal subdivisions, but shall be deemed sufficient if generally accurate; (4) A request that the State soil conservation committee duly define the boundaries for such district; that a referendum be held within the territory so defined on the question of the creation of a soil conservation district in such territory; and that the committee determine that such a district be created. Where more than one petition is filed covering parts of the same territory, the State soil conservation committee may consolidate all or any such petitions. B. Within sixty (60) days after such a petition has been filed with the State soil conservation committee, it shall cause due notice to be given of a proposed hearing upon the question of the desirability and necessity, in the interest of the public health, safety, and welfare, of the creation of such district, upon the question of the appropriate boundaries to be assigned to such district, upon the propriety of the petition and other proceedings taken under this act, and upon all questions relevant to such inquiries. All owners of land within the limits of the territory described in the petition, and of lands within any territory considered for addition to such described territory, and all other interested parties, shall have the right to attend such hearings and to be heard. If it shall appear upon the

hearing that it may be desirable to include within the proposed district, territory outside of the area within which due notice of hearing has been given, the hearing shall be adjourned and due notice of further hearing shall be given throughout the entire area considered for inclusion in the district, and such further hearing held. After such hearing, if the committee shall determine, upon the facts presented at such hearing and upon such other relevant facts and information as may be available, that there is need, in the interest of the public health, safety, and welfare, for a soil conservation district to function in the territory considered at the hearing, it shall make and record such determination, and shall define, by metes and bounds or by legal sub-divisions, the boundaries of such district. In making such determination and in defining such boundaries, the committee shall give due weight and consideration to the topography of the area considered and of the state, the composition of soils therein, the distribution of erosion, the prevailing land-use practices, the desirability and necessity of including within the boundaries the particular lands under consideration and the benefits such lands may receive from being included within such boundaries, the relation of the proposed area to existing watersheds and agricultural regions, and to other soil conservation districts already organized or proposed for organization under the provisions of this act, and such other physical, geographical, and economic factors as are relevant, having due regard to the legislative determinations set forth in section 2 of this act. If the committee shall determine after such hearing, after due consideration of the said relevant facts, that there is no need for a soil conservation district to function in the territory considered at the hearing, it shall make and record such determination and shall deny the petition. After twelve (12) months shall have expired from the date of the denial of any such petition, subsequent petitions covering the same or substantially the same territory may be filed as aforesaid and new hearings held and determinations made thereon. C. After the committee has made and recorded a determination that there is need, in the interest of the public health, safety, and welfare, for the organization of a district in a particular territory and has defined the boundaries thereof, it shall consider the question whether the operation of a district within such boundaries with the powers conferred upon soil conservation districts in this act is administratively practicable and feasible. To assist the committee in the determination of such administrative practicability and feasibility, it shall be the duty of the committee, within a reasonable time after entry of the finding that there is need for the organization of the proposed district and the determination of the boundaries thereof, to hold a referendum within the proposed district upon the proposition of the creation of the district, and to cause due notice of such referendum to

be given. The question shall be submitted by ballots upon which the words "For creation of a soil conservation district of the lands below described and lying in the county (ies) of _____ and _____" and "Against creation of a soil conservation district of the lands below described and lying in the county (ies) of _____, and _____" shall be printed, with a square before each proposition and a direction to insert an X mark in the square before one or the other of said propositions as the voter may favor or oppose creation of such district. The ballot shall set forth the boundaries of such proposed district as determined by the committee. All owners of lands lying within the boundaries of the territory, as determined by the State soil conservation committee, shall be eligible to vote in such referendum. Only such landowners shall be eligible to vote.

D. The committee shall pay all expenses for the issuance of such notices and the conduct of such hearings and referenda, and shall supervise the conduct of such hearings and referenda. It shall issue appropriate regulations governing the conduct of such hearings and referenda, and providing for the registration prior to the date of the referendum of all eligible voters, or prescribing some other appropriate procedure for the determination of those eligible as voters in such referendum. No informalities in the conduct of such referendum or in any matters relating thereto shall invalidate said referendum or the result thereof if notice thereof shall have been given substantially as herein provided and said referendum shall have been fairly conducted.

E. The committee shall take charge of all ballots cast, supervise the counting thereof, and publish the result of such referendum and shall thereafter consider and determine whether the operation of the district within the defined boundaries is administratively practicable and feasible. If the committee shall determine that the operation of such district is not administratively practicable and feasible, it shall record such determination and deny the petition. If the committee shall determine that the operation of such district is administratively practicable and feasible, it shall record such determination and shall proceed with the organization of the district in the manner hereinafter provided. In making such determination the committee shall give due regard and weight to the attitudes of the owners of lands lying within the defined boundaries, the number of landowners eligible to vote in such referendum who shall have voted, the proportion of the votes cast in such referendum in favor of the creation of the district to the total number of votes cast, the approximate wealth and income of the landowners of the proposed district, the probable expense of carrying on erosion-control operations within such district; and such other economic and social factors as may be relevant to such determination, having due regard to the legislative determinations set forth in section 2 of

this act; provided, however, that the committee shall not have authority to determine that the operation of the proposed district within the defined boundaries is administratively practicable and feasible unless at least two-thirds of the votes cast in the referendum upon the proposition of creation of the district shall have been cast in favor of the creation of such district. F. If the committee shall determine that the operation of the proposed district within the defined boundaries is administratively practicable and feasible, it shall appoint five (5) supervisors to act, who shall be land owners and residents of the said proposed district, as the governing body of the district. Such districts shall be a governmental subdivision of this State and a public body corporate and politic, upon the taking of the following proceedings: The five (5) supervisors shall present to the secretary of state an application signed by them, which shall set forth (and such application need contain no detail other than the mere recitals): (1) that a petition for the creation of the district was filed with the State soil conservation committee pursuant to the provisions of this act, and that the proceedings specified in this act were taken pursuant to such petition; that the application is being filed in order to complete the organization of the district as a governmental subdivision and a public body, corporate and politic, under this act; and that the committee has appointed them as supervisors; (2) the name and official residence of each of the supervisors, together with a certified copy of the appointments evidencing their right to office; (3) the term of office of each of the supervisors; (4) the name which is proposed for the district; and (5) the location of the principal office of the supervisors of the district. The application shall be subscribed and sworn to by each of the said supervisors before an officer authorized by the laws of this State to take and certify oaths, who shall certify upon the application that he personally knows the supervisors and knows them to be the officers as affirmed in the application, and that each has subscribed thereto in the officer's presence. The application shall be accompanied by a statement by the State soil conservation committee, which shall certify (and such statement need contain no detail other than the mere recitals) that a petition was filed, notice issued, and hearing held as aforesaid; that the committee did duly determine that there is need, in the interest of the public health, safety, and welfare, for a soil conservation district to function in the proposed territory and did define the boundaries thereof; that notice was given and a referendum held on the question of the creation of such district, and that the result of such referendum showed at least two-thirds of the votes cast in such referendum to be in favor of the creation of the district; that thereafter the committee did duly determine that the operation of the proposed district is administratively practicable and feasible. The said

statement shall set forth the boundaries of the district as they have been defined by the committee. The secretary of state shall examine the application and statement and, if he finds that the name proposed for the district is not identical with that of any other soil conservation district of this State or so nearly similar as to lead to confusion or uncertainty, he shall receive and file them and record them in an appropriate book of record in his office. If the secretary of state shall find that the name proposed for the district is identical with that of any other soil conservation district of this State, or so nearly similar as to lead to confusion and uncertainty, he shall certify such fact to the State soil conservation committee, which shall thereupon submit to the secretary of state a new name for the said district, which shall not be subject to such defects. Upon receipt of such new name, free of such defects, the secretary of state shall record the application and statement, with the name so modified, in an appropriate book of record in his office. When the application and statement have been made, filed, and recorded, as herein provided, the district shall constitute a governmental subdivision of this State and a public body corporate and politic. The secretary of state shall make and issue to the said supervisors a certificate, under the seal of the State, of the due organization of the said district, and shall record such certificate with the application and statement. The boundaries of such district shall include the territory as determined by the State soil conservation committee as aforesaid, but in no event shall they include any area included within the boundaries of another soil conservation district organized under the provisions of this act. G. After twelve (12) months shall have expired from the date of entry of a determination by the State soil conservation committee that operation of a proposed district is not administratively practicable and feasible, and denial of a petition pursuant to such determination, subsequent petitions may be filed as aforesaid and action taken thereon in accordance with the provisions of this act. H. Petitions for including additional territory within an existing district may be filed with the State soil conservation committee, and the proceedings herein provided for in the case of petitions to organize a district shall be observed in the case of petitions for such inclusion. The committee shall prescribe the form for such petitions, which shall be as nearly as may be in the form prescribed in this act for petitions to organize a district. Where the total number of landowners in the area proposed for inclusion shall be less than twenty-five (25), the petition may be filed when signed by at least two-thirds of the owners of land of such area, and in such case no referendum need be held. In referenda upon petitions for such inclusion, all owners of land lying within the proposed additional area shall be eligible to vote. Whenever such additional territory shall be taken into any exist-

ing district, the supervisor shall certify to the Secretary of State the name of the district to which it is added and the legal description of the area added. I. In any suit, action, or proceeding involving the validity or enforcement of, or relating to, any contract, proceeding, or action of the district, the district shall be deemed to have been established in accordance with the provisions of this act upon proof of the issuance of the aforesaid certificate by the secretary of state. A copy of such certificate duly certified by the secretary of state shall be admissible in evidence in any such suit, action, or proceeding and shall be proof of the filing and contents thereof.

Section 6. APPOINTMENT, QUALIFICATIONS AND TENURE OF SUPERVISORS. The governing body of the district shall consist of five (5) supervisors, appointed as provided hereinabove. The supervisors shall be persons who are by training and experience qualified to perform the specialized skilled services which will be required of them in the performance of their duties hereunder. The supervisors shall designate a chairman and may, from time to time, change such designation. The term of office of each supervisor shall be three (3) years. A supervisor shall hold office until his successor has been appointed and has qualified. Vacancies for an unexpired term shall be filled by appointment. A majority of the supervisors shall constitute a quorum and the concurrence of a majority in any matter within their duties shall be required for its determination. A supervisor shall receive no compensation for his services, but he shall be entitled to expenses, including traveling expenses, necessarily incurred in the discharge of his duties. The supervisors may utilize the services of the county agricultural agents and the facilities of the county agricultural agents' offices insofar as practicable and feasible and may, subject to the approval of the state committee, employ such additional employees and agents, permanent and temporary, as they may require, and determine their qualifications, duties, and compensation. The supervisors may delegate to their chairman, to one or more supervisors, or to one or more agents, or employees such powers and duties as they may deem proper. The supervisors shall furnish to the State soil conservation committee, upon request, copies of such ordinances, rules, regulations, orders, contracts, forms, and other documents as they shall adopt or employ, and such other information concerning their activities as it may require in the performance of its duties under this act. The supervisors shall provide for the execution of surety bonds for all employees and officers who shall be entrusted with funds or property; shall provide for the keeping of a full and accurate record of all proceedings and of all resolutions, regulations, and orders issued or adopted; and shall provide for an annual audit of the accounts of receipts and disbursements. Any supervisor may be

removed by the State soil conservation committee upon notice and hearing, for neglect of duty or malfeasance in office, but for no other reason. The supervisors may invite the legislative body of any municipality or county located near the territory comprised within the district to designate a representative to advise and consult with the supervisors of the district on all questions of program and policy which may affect the property, water supply, or other interests of such municipality or county.

Section 7. **POWERS OF DISTRICTS AND SUPERVISORS.** A soil conservation district organized under the provisions of this act shall constitute a governmental subdivision of this State, and a public body corporate and politic, exercising public powers, and such district, and the supervisors thereof, shall have the following powers, in addition to others granted in other sections of this act: (1) To carry out preventive and control measures within the district including, but not limited to, engineering operations, methods of cultivation, the growing of vegetation, changes in use of land, and other erosion control measures, on lands owned or controlled by this State or any of its agencies, with the consent and cooperation of the agency administering and having jurisdiction thereof, and on any other lands within the district upon obtaining the consent of the owner of such lands or the necessary rights or interests in such lands; (2) To conduct surveys, investigations, and research relating to the character of soil erosion and the preventive and control measures needed, to publish the results of such surveys, investigations, or research, and to disseminate information concerning such preventive and control measures; provided, however, that in order to avoid duplication of research activities, no district shall initiate any research program except in cooperation with the Alabama Agricultural Experiment Station or with the approval of the Director of the Alabama Agricultural Experiment Station; (3) To conduct demonstrational projects within the district on lands owned or controlled by this State or any of its agencies, with the cooperation of the agency administering and having jurisdiction thereof and on any other lands within the district upon obtaining the consent of the owner of such lands or the necessary rights or interests in such lands, in order to demonstrate by example the means, methods, and measures by which soil and soil resources may be conserved, and soil erosion in the form of soil blowing and soil washing may be prevented and controlled; Provided however, that none of the provisions of this act shall affect or apply to the University of Alabama, nor to any lands or property owned by, or under the control of, the Board of Trustees of the University of Alabama. (4) To cooperate, or enter into agreement with, and within the limits of appropriations duly made available to it by law, to furnish financial or other aid to, any agency, governmental or otherwise, or any

owner or occupier of lands within the district, in the carrying on of erosion-control and prevention operations within the district, subject to such conditions as the supervisors may deem necessary to advance the purposes of this act; (5) To obtain options upon and to acquire, by purchase, exchange, lease, gift, grant, bequest, devise, or otherwise, any property, real or personal, or rights or interests therein; to maintain, administer, and improve any properties acquired, to receive income from such properties and to expend such income in carrying out the purposes and provisions of this act; and to sell, lease, or otherwise dispose of any of its property or interests therein in furtherance of the purposes and the provisions of this act; (6) To make available, on such terms as it shall prescribe, to landowners within the district, agricultural and engineering machinery and equipment, fertilizer, seeds, and seedlings, and such other material or equipment as will assist such landowners to carry on operations upon their lands for the conservation of soil resources and for the prevention and control of soil erosion; (7) To construct, improve, and maintain such structures as may be necessary or convenient for the performance of any of the operations authorized in this act; including, but not limited to, plants and equipment appropriate for the processing of materials necessary for conditioning the land. (8) To develop comprehensive plans for the conservation of soil resources and for the control and prevention of soil erosion within the district, which plans shall specify in such detail as may be possible, the acts, procedures, performances, and avoidances which are necessary or desirable for the effectuation of such plans, including the specification of engineering operations, methods of cultivation, the growing of vegetation, cropping programs, tillage practices, and changes in use of land; and to publish such plans and information and bring them to the attention of owners and occupiers of lands within the district; (9) To take over, by purchase, lease, or otherwise, and to administer, any soil-conservation, erosion-control, or erosion-prevention project located within its boundaries undertaken by the United States or any of its agencies, or by this State or any of its agencies; to manage, as agent of the United States or any of its agencies, or of this State or any of its agencies, any soil-conservation, erosion-control, or erosion-prevention project within its boundaries: to act as agent for the United States, or any of its agencies, or for this State or any of its agencies, in connection with the acquisition, construction, operation, or administration of any soil-conservation, erosion-control, or erosion-prevention project within its boundaries; to accept donations, gifts and contributions in money, services, materials, or otherwise, from the United States or any of its agencies, or from this State or any of its agencies, and to use or expend such moneys, services, materials, or other contributions in carrying on its operations; (10)

To sue and be sued in the name of the district; to have a seal, which seal shall be judicially noticed; to have perpetual succession unless terminated as hereinafter provided; to make and execute contracts and other instruments, necessary or convenient to the exercise of its powers; to make, and from time to time, amend and repeal rules and regulations not inconsistent with this act, to carry into effect its purposes and powers; (11) As a condition, to the extending of any benefits under this act to, or the performance of work upon, any lands not owned or controlled by this State or any of its agencies, the supervisors may require contributions in money, services, materials, or otherwise to any operations conferring such benefits, and may require land owners to enter into and perform such agreements or covenants as to the permanent use of such lands as will tend to prevent or control erosion thereon; (12) No provisions with respect to the acquisition, operation, or disposition of property by other public bodies shall be applicable to a district organized hereunder unless the legislature shall specifically so state. The property and property rights of every kind and nature acquired by any district organized under the provisions of this act shall be exempt from state, county, and other taxation.

Section 8. ADOPTION OF LAND-USE REGULATIONS.

The supervisors of any district shall have authority to formulate regulations governing the use of lands within the district in the interest of conserving soil and soil resources and preventing and controlling soil erosion. The supervisors may conduct such public meetings and public hearings upon tentative regulations as may be necessary to assist them in this work. The supervisors shall not have authority to enact such land-use regulations into law until after they shall have caused due notice to be given of their intention to conduct a referendum for submission of such regulations to the owners of lands lying within the boundaries of the district for their indication of approval or disapproval of such proposed regulations, and until after the supervisors have considered the result of such referendum. The proposed regulations shall be embodied in a proposed ordinance. Copies of such proposed ordinance shall be available for the inspection of all eligible voters during the period between publication of such notice and the date of the referendum. The notices of the referendum shall recite the contents of such proposed ordinance, or shall state where copies of such proposed ordinance may be examined. The question shall be submitted by ballots, upon which the words "For approval of proposed ordinance No. _____, prescribing land-use regulations for conservation of soil and prevention of erosion" and "Against approval of proposed ordinance No. _____, prescribing land-use regulations for conservation of soil and prevention of erosion" shall be printed, with a square before each proposition and a di-

rection to insert an X mark in the square before one or the other of said propositions as the voter may favor or oppose approval of such proposed ordinance. The supervisors shall supervise such referendum, shall prescribe appropriate regulations governing the conduct thereof, shall take charge of all ballots and count them, and shall publish the result thereof. All owners of lands within the district shall be eligible to vote in such referendum. Only such landowners shall be eligible to vote. No informalities in the conduct of such referendum or in any matters relating thereto shall invalidate said referendum or the result thereof if notice thereof shall have been given substantially as herein provided and said referendum shall have been fairly conducted. The qualifications of voters shall be determined in the same manner as set forth in sub-section D of section 5 of this act. The supervisors shall not have authority to enact such proposed ordinance into law unless at least four-fifths of the votes cast in such referendum shall have been cast for approval of the said proposed ordinance. The approval of the proposed ordinance by four-fifths of the votes cast in such referendum shall not be deemed to require the supervisors to enact such proposed ordinance into law. Land-use regulations prescribed in ordinances adopted pursuant to the provisions of this section by the supervisors of any district shall have the force and effect of law in the said district and shall be binding and obligatory upon all owners of lands within such district. Any owner of land within such district may at any time file a petition with the supervisors asking that any or all of the land-use regulations prescribed in any ordinance adopted by the supervisors under the provisions of this section shall be amended, supplemented, or repealed. Land-use regulations prescribed in any ordinance adopted pursuant to the provisions of this section shall not be amended, supplemented, or repealed except in accordance with the procedure prescribed in this section for adoption of land-use regulations. Referenda on adoption, amendment, supplementation, or repeal of land-use regulations shall not be held more often than once in twelve (12) months. The regulations to be adopted by the supervisors under the provisions of this section may include: 1. Provisions requiring the carrying out of necessary engineering operations, including but not limited to the construction of terraces, terrace outlets, check dams, dikes, ponds, ditches, and other necessary structures; 2. Provisions requiring observance of particular methods of cultivation including but not limited to contour cultivating, contour furrowing, lister furrowing, sowing, planting, strip cropping, seeding, and planting of lands to water-conserving and erosion-preventing plants, trees and grasses, forestation, and reforestation; prevention, and control of fire in woodlands. 3. Specifications of cropping programs and tillage practices to be observed; 4. Provisions requiring the retirement from cultivation of highly erod-

ible areas or of areas on which erosion may not be adequately controlled if cultivation is carried on; 5. Provisions for such other means, measures, operations, and programs as may assist conservation of soil resources and prevent or control soil erosion in the district, having due regard to the legislative findings set forth in Section 2 of this act. The regulations shall be uniform throughout the territory comprised within the district except that the supervisors may classify the lands within the district with reference to such factors as soil type, degree of slope, degree of erosion threatened or existing, cropping and tillage practices in use, and other relevant factors, and may provide regulations varying with the type or class of land affected, but uniform as to all lands within each class or type. Copies of land-use regulations adopted under the provisions of this section shall be printed and made available to all occupiers and owners of lands lying within the district.

Section 9. ENFORCEMENT OF LAND-USE REGULATIONS. The supervisors shall have authority to go upon any lands within the district to determine whether land use regulations adopted under the provisions of Section 8 of this Act are being observed. The supervisors are further authorized to provide by ordinance that any landowners who shall sustain damages from any violation of such regulations by any other landowner may recover damages at law from such other landowner for such violation.

Section 10. PERFORMANCE OF WORK UNDER THE REGULATIONS BY THE SUPERVISORS. Where the supervisors of any district shall find that any of the provisions of land-use regulations prescribed in an ordinance adopted in accordance with the provisions of section 8 hereof are not being observed on particular lands, and that such non-observance tends to increase erosion on such lands and is interfering with the prevention or control of erosion on other lands within the district, the supervisors may present to the circuit court in equity of the county in which the land of the defendant may lie, a petition, duly verified, setting forth the adoption of the ordinance prescribing land-use regulations, the failure of the defendant landowner to observe such regulations, and to perform particular work, operations, or avoidances as required thereby, and that such non-observance tends to increase erosion on such lands and is interfering with the prevention or control of erosion on other lands within the district, and praying the court to require the defendant to perform the work, operations, or avoidances within a reasonable time and to order that if the defendant shall fail so to perform the supervisors may go on the land, perform the work or other operations or otherwise bring the condition of such lands into conformity with the requirements of such regulations, and recover the costs and expenses thereof, with interest, from the owner of

such land. Upon the presentation of such petition, the court shall cause process to be issued against the defendant, and shall hear the case. If it shall appear to the court that testimony is necessary for the proper disposition of the matter, it may take evidence, or appoint a referee to take such evidence as it may direct and report the same to the court with his findings of fact and conclusions of law, which shall constitute a part of the proceedings upon which the determination of the court shall be made. The court may dismiss the petition; or it may require the defendant to perform the work, operation, or avoidances, and may provide that upon the failure of the defendant to initiate such performance within the time specified in the order of the court, and to prosecute the same to completion with reasonable diligence, the supervisors or their agents may enter upon the lands involved and perform the work or operations or otherwise bring the condition of such lands into conformity with the requirements of the regulations and recover the costs and expenses thereof, with interest at the rate of five per centum per annum, from the owner of such lands. The court shall retain jurisdiction of the case until after the work has been completed. Upon completion of such work pursuant to such order of the court the supervisors may file a petition with the court, a copy of which shall be served upon the defendant in the case, stating the costs and expenses sustained by them in the performance of the work and praying judgment therefor with interest. The court shall have jurisdiction to enter judgment for the amount of such costs and expenses, with interest at the rate of five per centum per annum until paid, together with the costs of suit, including a reasonable attorney's fee to be fixed by the court.

Section 11. COOPERATION BETWEEN DISTRICTS. The supervisors of any two or more districts organized under the provisions of this act may cooperate with one another in the exercise of any or all powers conferred in this act.

Section 12. STATE AGENCIES TO COOPERATE. Agencies of this State which shall have jurisdiction over, or be charged with the administration of, any State-owned lands, and of any county, or other governmental subdivision of the State, which shall have jurisdiction over, or be charged with the administration of, any county-owned or other publicly owned lands, lying within the boundaries of any district organized hereunder, shall cooperate to the fullest extent with the supervisors of such districts in the effectuation of programs and operations undertaken by the supervisors under the provisions of this act. The supervisors of such districts shall be given free access to enter and perform work upon such publicly owned lands. The provisions of land-use regulations adopted pursuant to section 8 of this act shall have the force and effect of law over all such publicly owned lands, and shall be

in all respects observed by the agencies administering such lands.

Section 13. DISCONTINUANCE OF DISTRICTS. At any time after three (3) years after the organization of a district under the provisions of this act, any twenty-five (25) owners of land lying within the boundaries of such district may file a petition with the State soil conservation committee praying that the operations of the district be terminated and the existence of the district discontinued. The committee may conduct such public meetings and public hearings upon such petition as may be necessary to assist it in the consideration thereof. Within sixty (60) days after such a petition has been received by the committee it shall give due notice of the holding of a referendum, and shall supervise such referendum, and issue appropriate regulations governing the conduct thereof, the question to be submitted by ballots upon which the words "For terminating the existence of the _____ (name of the soil conservation district to be here inserted)" and "Against terminating the existence of the _____ (name of the soil conservation district to be here inserted)" shall be printed, with a square before each proposition and a direction to insert an X mark in the square before one or the other of said propositions as the voter may favor or oppose discontinuance of such district. All owners of lands lying within the boundaries of the district shall be eligible to vote in such referendum. Only such landowners shall be eligible to vote. No informalities in the conduct of such referendum or in any matters relating thereto shall invalidate said referendum or the result thereof if notice thereof shall have been given substantially as herein provided and said referendum shall have been fairly conducted. The committee shall publish the result of such referendum and shall thereafter consider and determine whether the continued operation of the district within the defined boundaries is administratively practicable and feasible. If the committee shall determine that the continued operation of such district is administratively practicable and feasible, it shall record such determination and deny the petition. If the committee shall determine that the continued operation of such district is not administratively practicable and feasible, it shall record such determination and shall certify such determination to the supervisors of the district. In making such determination the committee shall give due regard and weight to the attitudes of the owners of lands lying within the district, the number of landowners eligible to vote in such referendum who shall have voted, the proportion of the votes cast in such referendum in favor of the discontinuance of the district to the total number of votes cast, the approximate wealth and income of the land occupiers of the district, the probable expense of carrying on erosion control operations within such district, and such other economic and social

factors as may be relevant to such determination, having due regard to the legislative findings set forth in section 2 of this act; provided, however, that the committee shall not have authority to determine that the continued operation of the district is administratively practicable and feasible unless at least a majority of the votes cast in the referendum shall have been cast in favor of the continuance of such district. Upon receipt from the State soil conservation committee of a certification that the committee has determined that the continued operation of the district is not administratively practicable and feasible, pursuant to the provisions of this section, the supervisors shall forthwith proceed to terminate the affairs of the district. The supervisors shall dispose of all property belonging to the district at public auction and shall pay over the proceeds of such sale to be covered into the State treasury. The supervisors shall thereupon file an application, duly verified, with the secretary of state for the discontinuance of such district, and shall transmit with such application the certificate of the State soil conservation committee setting forth the determination of the committee that the continued operation of such district is not administratively practicable and feasible. The application shall recite that the property of the district has been disposed of and the proceeds paid over as in this section provided, and shall set forth a full accounting of such properties and proceeds of the sale. The secretary of state shall issue to the supervisors a certificate of dissolution and shall record such certificate in an appropriate book of record in his office. Upon issuance of a certificate of dissolution under the provisions of this section, all ordinances and regulations theretofore adopted and in force within such districts shall be of no further force and effect. All contracts theretofore entered into, to which the district or supervisors are parties, shall remain in force and effect for the period provided in such contracts. The State soil conservation committee shall be substituted for the district or supervisors as party to such contracts. The committee shall be entitled to all benefits and subject to all liabilities under such contracts and shall have the same right and liability to perform, to require performance, to sue and be sued thereon, and to modify or terminate such contracts by mutual consent or otherwise, as the supervisors of the district would have had. Such dissolution shall not affect the lien of any judgment entered under the provisions of section 10 of this act, nor the pendency of any action instituted under the provisions of such section, and the committee shall succeed to all the rights and obligations of the district or supervisors as to such liens and actions. The State soil conservation committee shall not entertain petitions for the discontinuance of any district nor conduct referenda upon such petitions nor make determinations pursuant to such petitions in ac-

cordance with the provisions of this act, more often than once in three (3) years.

Section 14. APPROPRIATIONS. There is hereby appropriated to the State soil conservation committee the sum of \$10,000 annually for the administrative and other expenses of the State soil conservation committee and the soil conservation districts which may be organized under the provisions of this act. The Comptroller of the State is hereby authorized and directed to draw his warrant on the State Treasurer for the sums hereinabove appropriated, upon the order of the chairman of the State soil conservation committee, at such times, and in such amounts as may be needed.

Section 15. SEPARABILITY CLAUSE. If any provision of this act, or the application of any provision to any person or circumstance, is held invalid, the remainder of the act, and the application of such provision to other persons or circumstances, shall not be affected thereby.

Section 16. INCONSISTENCY WITH OTHER ACTS. Insofar as any of the provisions of this act are inconsistent with the provisions of any other law, the provisions of this act shall be controlling.

Section 17. EFFECTIVE DATE. This act shall become effective immediately upon its approval by the Governor.

Approved March 18, 1939.

No. 148)

(S. 76—Shaver

AN ACT

To amend Sections 4, 15 and 16, and to repeal Section 26 of an Act entitled "An Act to declare the necessity of creating public bodies corporate and politic to be known as housing authorities to engage in slum-clearance and/or housing projects; to provide for the creation of such housing authorities; to define the powers and duties of such housing authorities and to provide for the exercise of such powers including the borrowing of money, issuance of bonds and other obligations and the giving of security therefor to provide for the payment of such bonds and other obligations with the approval and consent of a Board to be known as the Public Works Board of Alabama, and to provide for the remedies of bond and other obligation holders of such housing authorities," approved February 8, 1935, as amended by an Act entitled "An Act to amend Section 4 of an Act entitled 'An Act to declare the necessity of creating public bodies corporate and politic to be known as housing authorities to engage in slum-clearance and/or housing projects; to provide for the creation of such housing authorities; to define the powers and duties of such housing authorities and to provide for the exercise of such powers including the borrowing of money, issuance of bonds and other obligations and the giving of security therefor to provide for the payment of such bonds and other obligations with the approval and consent of a Board to be known as the Public Works Board of Alabama, and to provide for the remedies of bond and other obliga-

tion holders of such housing authorities', Approved February 8, 1935," Approved September 13, 1935.

Be it Enacted by the Legislature of Alabama:

Section 1. That Section 4 of an Act entitled "An Act to declare the necessity of creating public bodies corporate and politic to be known as housing authorities to engage in slum-clearance and/or housing projects; to provide for the creation of such housing authorities; to define the powers and duties of such housing authorities and to provide for the exercise of such powers including the borrowing of money, issuance of bonds and other obligations and the giving of security therefor to provide for the payment of such bonds and other obligations with the approval and consent of a Board to be known as the Public Works Board of Alabama, and to provide for the remedies of bond and other obligation holders of such housing authorities," approved February 8, 1935, as amended by an Act entitled "An Act to amend Section 4 of an Act entitled 'An Act to declare the necessity of creating public bodies corporate and politic to be known as housing authorities to engage in slum clearance and/or housing projects; to provide for the creation of such housing authorities; to define the powers and duties of such housing authorities and to provide for the exercise of such powers including the borrowing of money, issuance of bonds and other obligations and the giving of security therefor to provide for the payment of such bonds and other obligations with the approval and consent of a Board to be known as the Public Works Board of Alabama, and to provide for the remedies of bond and other obligation holders of such housing authorities', approved February 8, 1935", approved September 13, 1935, be and the same is hereby amended to read as follows: Section 4. NOTICE, HEARING AND CREATION OF AUTHORITY. Any 25 residents of a city, or of the area within ten miles from the territorial boundaries thereof may file a petition with the City Clerk setting forth that there is a need for an authority to function in the city and the said surrounding area. Upon the filing of such a petition the City Clerk shall give notice of the time, place and purposes of a public hearing at which the council will determine the need for an authority in the city and said surrounding area. Such notice shall be given at the City's expense by publishing a notice, at least ten days preceding the day on which the hearing is to be held, in a newspaper having a general circulation in the city and said surrounding area or, if there be no such newspaper, by posting such a notice in at least three public places within the City, at least ten days preceding the day on which the hearing is to be held. Upon the date fixed for said hearing held upon notice as provided herein, an opportunity to be heard shall be granted to all residents and taxpayers of the city

and said surrounding area and to all other interested persons. After such a hearing, the council shall determine (1) whether unsanitary or unsafe inhabited dwelling accommodations exist in the city and said surrounding area and/or (2) whether there is a lack of safe or sanitary dwelling accommodations in the city and said surrounding area available for the inhabitants thereof. In determining whether dwelling accommodations are unsafe or unsanitary, the council shall take into consideration the following: The physical condition and age of the buildings; the degree of overcrowding; the percentage of land coverage; the light and air available to the inhabitants of such dwelling accommodations; the size and arrangement of the rooms; the sanitary facilities; the extent to which conditions exist in such buildings which endanger life or property by fire or other causes. If it shall determine that either or both of the above enumerated conditions exist, the council shall adopt a resolution so finding (which need not go into any detail other than the mere finding). Such resolution may be adopted at the meeting at which it is introduced by a vote of a majority of the members of the council present at such meeting. Such resolution shall take effect immediately and shall not be laid over or published or posted. The council shall promptly notify the Mayor who shall thereupon appoint, as hereinafter provided, five commissioners to act as an authority. Said commission shall be a public body and a body corporate and politic upon the completion of the taking of the following proceedings: The commissioners shall present to the Secretary of the State of Alabama, an application signed by them, which shall set forth (without any detail other than the mere recital) (1) that a notice has been given and public hearing has been held as aforesaid, that the council made the aforesaid determination after such hearing, and that the Mayor has appointed them as commissioners; (2) the name, and official residence of each of the commissioners, together with a certified copy of the appointment evidencing their right to office, the date and place of induction into and taking oath of office, and that they desire the housing authority to become a public body and a body corporate and politic under this Act; (3) the term of office of each of the commissioners and the place where, if any, the official appointment of each of said members is kept of record; (4) the name which is proposed for the corporation; (5) the location of the principal office of the proposed corporation; (6) any other matter relating to the incorporation which the commissioners might choose to insert not inconsistent with the constitution and laws of the State of Alabama. The application shall be subscribed and sworn to by each of said commissioners before an officer authorized by the laws of the State of Alabama to take and certify oaths, who shall certify upon the application that he personally knows the commissioners and knows them to be the officers as

asserted in the application, and that each subscribed and swore thereto in the officer's presence. The Secretary of State shall examine the application and if he finds that the name proposed for the corporation is not identical with that of a person or of any other corporation of the state or so nearly similar as to lead to confusion and uncertainty he shall receive and file it and shall record it in an appropriate book of record in his office. When the application has been made, filed and recorded, as herein provided, the Authority shall constitute a public body and a body corporate and politic under the name proposed in the application; the Secretary of State shall make and issue to the said commissioners, a certificate of incorporation pursuant to this Act, under the seal of the State, and shall record the same with the application. The boundaries of such authority shall include said city and the area within ten miles from the territorial boundaries of said city, but in no event shall it include the whole or a part of any other city nor any area included within the boundaries of another authority. In case an area lies within ten miles of the boundaries of more than one city, such area shall be deemed to be within the boundaries of the authority embracing such area which was first established, all priorities to be determined on the basis of the time of the issuance of the aforesaid certificates by the Secretary of State. If the council, after a hearing as aforesaid, shall determine that neither of the above enumerated conditions exist, it shall adopt a resolution denying the petition. After three months shall have expired from the date of the denial of any such petition, subsequent petitions may be filed as aforesaid and new hearings and determinations made thereon. In any suit, action or proceeding involving the validity or enforcement of, or relating to any contract of the authority, the authority shall be conclusively deemed to have been established in accordance with the provisions of this Act upon proof of the issuance of the aforesaid certificate by the Secretary of State. A copy of such certificate, duly certified by the Secretary of State, shall be admissible in evidence in any such suit, action or proceedings, and shall be conclusive proof of the filing and contents thereof. Nothing contained in this section shall be construed as affecting the boundaries heretofore established for any housing authority.

Section 2. That Section 15 of said Act, approved February 8, 1935, as amended September 13, 1935, be and the same is hereby amended to read as follows: Section 15. TYPES OF BONDS. An authority shall have power to issue bonds from time to time in its discretion, for any of its corporate purposes. An authority shall also have power to issue or exchange refunding bonds for the purpose of paying, retiring, extending or renewing bonds previously issued by it. An authority may issue such types of bonds as it may determine, including (without limiting the gen-

erality of the foregoing) bonds on which the principal and interest are payable from income and revenues of the authority and from grants or contributions from the Federal Government or other source. Such income and revenues securing the bonds may be: (a) exclusively the income and revenues of the housing project financed in whole or in part with the proceeds of such bonds; (b) exclusively the income and revenues of certain designated housing projects, whether or not they are financed in whole or in part with the proceeds of such bonds, or (c) the income and revenues of the authority generally. Any such bonds may be additionally secured by a pledge of any income or revenues of the authority, or a mortgage of any housing project, projects, or other property of the authority. Neither the commissioners of an authority nor any person executing the bonds shall be liable personally on the bonds by reason of the issuance thereof. The bonds and other obligations of an authority (and such bonds and obligations shall so state on their face) shall not be a debt of the city, the State or any political subdivision thereof and neither the city nor the State or any political subdivision thereof shall be liable thereon, nor in any event shall such bonds or obligations be payable out of any funds or properties other than those of said authority. The bonds shall not constitute an indebtedness within the meaning of any constitutional, statutory or charter debt limitation or restriction.

Section 3. That Section 16 of said Act, approved February 8, 1935, as amended September 13, 1935, be and the same is hereby amended to read as follows: Section 16. FORM AND SALE OF BONDS. The bonds of the Authority shall be authorized by its resolution and shall be issued in one or more series and shall bear such date or dates, mature at such time or times, not exceeding sixty years from their respective dates bear interest at such rate or rates, not exceeding six per centum (6%) per annum payable semi-annually, be in such denominations (which may be made interchangeable) be in such form, either coupon or registered, carry such registration privileges, be executed in such manner, be payable in such medium of payment, at such place or places, and be subject to such terms of redemption (with or without premium) as such resolution or its trust indenture or mortgage may provide. The bonds may be sold at public sale held after notice published once at least ten days prior to such sale in a newspaper circulating in the city and in a financial newspaper published in the City of New York, New York, or in the City of New Orleans, Louisiana, provided, however, that such bonds may be sold to the Federal Government at private sale without any public advertisement. The bonds may be sold at such price or prices as the authority shall determine provided that the interest cost to ma-

turity of the money received for any issue of said bonds shall not exceed six per centum (6%) per annum. Pending the authorization, preparation, execution or delivery of definitive bonds, the authority may issue interim certificates, or other temporary obligations to the purchaser of such bonds. Such interim certificates, or other temporary obligations, shall be in such form, contain such terms, conditions and provisions, bear such date or dates, and evidence such agreements relating to their discharge or payment or the delivery of definitive bonds as the authority may by resolution, trust indenture or mortgage determine. In case any of the officers whose signatures appear on any bonds or coupons shall cease to be such officers before the delivery of such bonds, such signatures shall, nevertheless, be valid and sufficient for all purposes, the same as if they had remained in office until such delivery. The authority shall have power out of any funds available therefor to purchase any bonds issued by it at a price not more than the principal amount thereof and the accrued interest. All bonds so purchased shall be cancelled. This paragraph shall not apply to the redemption of bonds. Any provision of any law to the contrary notwithstanding, any bonds, interim certificates, or other obligations issued pursuant to this Act are hereby declared to be negotiable instruments.

Section 4. That Section 26 of said Act, approved February 8, 1935, as amended September 13, 1935, be and the same is hereby repealed.

Section 5. That, notwithstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that if any provision of this Act, or the application thereof to any person or circumstances, is held invalid, the remainder of the Act and the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

Section 6. That, insofar as the provisions of this Act are inconsistent with the provisions of any other law, the provisions of this Act shall be controlling.

Section 7. That this Act shall be effective immediately upon its passage and approval.

Approved March 17, 1939.

No. 149)

(S. 80—Elmore

AN ACT

To Amend Section 7575 of the Code of Alabama of 1923.

Be it Enacted by the Legislature of Alabama:

Section 1. That Section 7575 of the Code of Alabama of 1923 be amended so as to read as follows: 7575. EMPLOYER MAY PAY AWARD TO TRUSTEE AND BE DISCHARGED.—At any time after the amount of any award has been agreed upon by the parties, or found and ordered by the court, a sum equal to the present value of all future installments of compensation calculated on a six per cent basis, may, where death or the nature of the injury renders the amount of future payments certain, by leave of court, be paid by the employer to any savings bank or trust company of this State, or any national bank doing business in this state to be approved and designated by the court, and such sum, together with all interest thereon, shall thereafter be held in trust for the employe or dependents of the employe, who shall have no further recourse against the employer. The payment of such sum by the employer, evidenced by the receipts in duplicate of the trustees, one of which shall be filed with the probate judge of the county in which the injury or death occurred, and the other filed with the clerk of the circuit court, shall operate as a satisfaction of said award as to the employer, and the trustees designated by the court shall be allowed to pay itself from said fund a reasonable compensation for acting as such trustee, which said compensation shall be fixed by the court in the decree making such designation. Payments from said fund shall be made by the trustee in the same amounts and at the same time as are herein required of the employer until said fund, after deducting trustee's compensation as above provided, and interest shall be exhausted. In the appointment of the trustee, preference shall be given, in the discretion of the court, to the choice of the injured employe or the dependents of the deceased employe as the case may be. In the event the right to receive compensation should terminate on account of death, becoming of age, or marriage, or for any other cause as provided in this chapter, the balance remaining in said bank or trust company after such termination should be returned by them to the employer, his successor or assigns.

Approved March 17, 1939.

No. 151)

(S. 119—Young

AN ACT

Authorizing and Empowering the Governor of Alabama to Convey to the United States of America Certain Lands Now Owned by the State of Alabama in Chilton County, Alabama, and Now Used in the Maintenance of a Home for Confederate Veterans and Their Widows, for the Purpose of Establishing a National Cemetery in Accordance with Public No. 774, June 29, 1938.

Be it Enacted by the Legislature of Alabama:

Section 1. That the Governor of this state, and the Board of Control of the Home for Confederate Veterans and Their Widows, in Mountain Creek, Chilton County, Alabama, be, and hereby is authorized and empowered to convey ownership of lands, or parts of certain lands, in Mountain Creek, Chilton County, Alabama, to the United States of America, in accordance with Public Law, No. 774, June 29, 1938, for the purpose of establishing a National Cemetery in Alabama.

Section 2. That this conveyance of lands shall be conditional upon acceptance by the Congress of the United States of America to hold and maintain such lands as a national cemetery for all time to come.

Section 3. The above provisions come into full force and effect with the signature of the Governor.

Approved March 16, 1939.

No. 152)

(S. 120—Simpson

AN ACT

Authorizing Trustees, Executors, Administrators, Guardians, And Other Fiduciaries, Upon The Termination Of Their Fiduciary Relationships, To Sell To Other Mortgagees Approved By The Federal Housing Administration Mortgages Accepted For Insurance By The Federal Housing Administrator And To Distribute The Proceeds In Cash.

Be it Enacted by the Legislature of Alabama:

Section 1. That it shall be lawful for trustees, executors, administrators, guardians, and other fiduciaries, upon the termination of their fiduciary relationships, whether by revocation or otherwise, to make distribution of assets consisting of mortgages insured by the Federal Housing Administrator in cash rather than in kind, and in order to carry out the foregoing provision, such trustees, executors, administrators, guardians, and other fiduciaries, upon the termination of such fiduciary relationships, are hereby granted full power and authority to sell, transfer and deliver all such mortgages to other mortgagees approved by the Federal Housing Administrator, and the delivery of the proceeds of a bona fide sale of

any such mortgage to the beneficial owner shall constitute full acquittance to such fiduciary as to such mortgage.

Section 2. That all laws and parts of laws in conflict herewith are hereby repealed.

Section 3. That this act shall take effect immediately upon the passage and approval by the Governor.

Approved March 20, 1939.

No. 153)

(S. 121—Simpson

AN ACT

To amend Section 1 of an Act entitled, "An Act authorizing trustees, executors, administrators, guardians and other fiduciaries to invest in mortgages which the Federal Housing Administrator has insured pursuant to title two of the National Housing Act," approved February 8, 1935, to enable the State of Alabama and its political sub-divisions, and its departments, boards, institutions and agencies to invest in notes or bonds secured by mortgage or trust deed insured by the Federal Housing Administrator and in debentures issued by such administrator and also to enable fiduciaries to invest in such debentures.

Be it Enacted by the Legislature of Alabama:

Section 1. That Section 1 of the Act to which this Act is an amendment is hereby amended to read as follows: Section 1. It shall be lawful for trustees, executors, administrators, guardians, and other fiduciaries, the State of Alabama, and any of its departments, boards, institutions and agencies, and of the municipalities, counties and other political sub-divisions of the State, to invest their funds and the monies in their custody or possession eligible for investment in notes or bonds secured by mortgage or trust deed insured by the Federal Housing Administrator pursuant to the laws and regulations governing the insurance of such as now constituted or as hereafter amended and in debentures issued by such Administrator.

Section 2. That all laws and parts of law in conflict herewith are hereby repealed.

Section 3. That this Act shall take effect immediately upon the passage and approval by the Governor.

Approved March 20, 1939.

No. 154)

(S. 132—Johnston)

AN ACT

To amend subsection (f) of Section V of an act approved February 8, 1939, entitled "An Act to further provide for the general revenue of the State of Alabama."

Be it Enacted by the Legislature of Alabama:

Section 1. That subsection (f) of Section V of an act approved February 8, 1939, entitled "An Act to further provide for the general revenue of the State of Alabama" be and the same is hereby amended to read as follows: "(f). The gross proceeds of sales of all livestock by whomsoever sold; and also the gross proceeds of sales of poultry and other products of the farm, dairy, grove or garden, when in the original state of production or condition of preparation for sale, when such sale or sales are made by the producer or members of his immediate family or for him by those employed by him to assist in the production thereof. Nothing herein shall be construed to exempt or exclude from the measure or computation of the tax levied, assessed or payable hereunder, the gross proceeds of sales of poultry products when not products of the farm."

Section 2. That this act shall become effective upon its passage and approval by the Governor or its otherwise becoming a law.

Approved March 14, 1939.

No. 155)

(S. 142—Harris and Simpson)

AN ACT

To amend, by adding thereto Section 5¾, an Act entitled "An Act to further provide for the general revenue of the State of Alabama," approved February 8th, 1939.

Be it Enacted by the Legislature of Alabama:

Section 1. That an Act entitled "An Act to further provide for the general revenue of the State of Alabama," approved February 8th, 1939, be and the same is hereby, amended so as to add Section No. 5¾ to read as follows: "Section 5¾. There are, however, further exempted from the provisions of this Act and from the computation of the amount of the tax levied, assessed or payable under this Act the following: The gross proceeds of the sale or sales of fluid milk as is now or may hereafter be defined by law when such sale or sales are made by a distributor who has purchased such fluid milk or the milk processed into such fluid milk direct from the producer thereof. Provided, however,

that the term 'distributor' as used here shall not be construed to include hotels, restaurants, cafes, cafeterias, drug stores, grocery stores and other retail establishments where milk is served or sold for consumption on the premises or as an incident to the principal business."

Section 2. All laws and parts of laws in conflict herewith are hereby specifically repealed.

Section 3. That this Act shall become effective immediately upon its passage and approval by the Governor.

Approved March 14, 1939.

No. 156)

(S. 143—Booth

AN ACT

To regulate the fees charged in misdemeanor cases cognizable in justice of the peace courts which are tried in county courts, inferior courts, law and equity courts or courts of like jurisdiction where the defendant pleads guilty and no appeal is taken including misdemeanor cases for violations of the State Highway Code, the State Highway Patrol Act and the rules of the road; to prohibit the taxation and collection of a solicitor's fee in such cases; and to repeal all laws and parts of laws, general, special and local, in conflict herewith.

Be it Enacted by the Legislature of Alabama:

Section 1. That in all misdemeanor cases for violation of the State Highway Code, the State Highway Patrol Act and the rules of the road cognizable in Justice of the Peace courts, courts created in lieu of Justice of the Peace courts, County Courts, Inferior Courts, Law and Equity Courts, or courts of like jurisdiction, where the defendant pleads guilty and no appeal is taken, no fee shall be taxed or collected in said courts for trial, solicitor's fees, or entering judgment in such cases.

Section 3. That all laws and parts of laws, general, special and local, in conflict with the provisions of this Act be and the same are hereby expressly repealed.

Section 4. That this Act shall become effective upon its passage and approval by the Governor or its otherwise becoming a law.

Approved March 16, 1939.

No. 157)

(S. 149—Hildreth

AN ACT

To require the Warrant Commission, composed of the Governor, the State Comptroller and the Attorney General created under an Act of the Legislature approved April 17th, 1933, to issue to the Treasurer of the State of Alabama, as custodian of the public school fund collected under the levies provided under Section 256 to 260 inclusive of the Constitution of 1901, interest bearing warrants to be dated July 1, 1933, for the sum of \$626,358.39 as provided under said Warrant Act, being the sum represented by a like amount of warrants which are included in the amount of \$16,943,357.12 of outstanding and unpaid warrants drawn on the treasury at the close of business on September 30th, 1932, upon which the Governor was authorized to pay interest under the terms of the warrant amendment to the Constitution of the State of Alabama proposed by Senate Bill No. 5 passed by the Senate of Alabama on April 4, 1933, and by the House of Representatives on April 14, 1933, and proclaimed ratified by the people of Alabama on August 2, 1933; and to provide for the payment of said warrants when issued out of the surplus of proceeds of Income Tax after provision has been made at any time for the payment of the next two maturing installments of interest, and the next maturing installment on principal of refunding bonds as provided under the Act of the Legislature of 1935 approved February 8th, 1935, and after provision has been made at any time for the payment of any other lawful charges against the proceeds of said Income Tax, and to repeal all laws in conflict with this Act.

WHEREAS, a part of the floating debt of Alabama at the close of business on September 30, 1932, and due on October 1st, 1932, consisted of the following warrants issued against the public school fund:

To Whom Issued	Date Issued	Warrant No.	Amount
J. W. Craig.....	Dec. 8, 1930	8029	\$23,994.00
G. I. Weatherly.....	Dec. 8, 1930	8030	17,078.00
Geo. O. Harold.....	Dec. 8, 1930	8032	11,962.00
J. B. Wadsworth.....	Dec. 8, 1930	8033	24,805.00
G. L. Smith.....	Dec. 8, 1930	8034	7,721.00
R. P. Sargent.....	Dec. 8, 1930	8035	10,854.00
W. J. Meriwether.....	Dec. 8, 1930	8037	6,948.00
L. M. Griffin.....	Dec. 8, 1930	8038	11,537.00
L. T. Solomon.....	Dec. 8, 1930	8039	9,462.00
K. L. Forrester.....	Dec. 8, 1930	8040	18,286.00
H. G. Jacobs.....	Dec. 8, 1930	8041	15,128.00
T. S. Jones.....	Dec. 8, 1930	8043	7,715.00
E. B. Garner.....	Dec. 8, 1930	8044	19,690.00
J. L. Weatherwax.....	Dec. 8, 1930	8045	11,798.00
A. K. Cooper.....	Feb. 25, 1931	18859	17,978.91
W. D. Stapleton.....	Feb. 25, 1931	18860	24,028.03
R. A. Beeland, Jr.....	Feb. 25, 1931	18865	26,878.00
L. A. Stanley.....	Feb. 25, 1931	18866	34,250.77
J. O. Jordan.....	Feb. 25, 1931	18868	16,962.99
John C. Page.....	Feb. 25, 1931	18869	26,621.67

To Whom Issued	Date Issued	Warrant No.	Amount
E. L. Bush.....	Feb. 25, 1931	18870	16,806.05
L. R. Tucker.....	Feb. 25, 1931	18871	22,993.22
Fred. Osborn.....	Feb. 25, 1931	18873	11,052.38
Winston Stewart.....	Feb. 25, 1931	18877	10,989.90
John L. Law.....	Feb. 25, 1931	18882	8,500.00
J. L. Weatherwax.....	Feb. 25, 1931	18895	17,144.00
I. J. Dorsey, Jr.....	Feb. 25, 1931	18896	16,681.52
W. J. Howard.....	Feb. 25, 1931	18897	14,751.12
T. B. Leatherwood.....	Feb. 25, 1931	18898	13,000.00
Irving Adams.....	Feb. 25, 1931	18901	12,538.82
D. K. Mason.....	Feb. 25, 1931	18909	12,816.69
Margaret Forman.....	Feb. 25, 1931	18913	17,612.25
T. M. Tartt, Jr.....	Feb. 25, 1931	18915	14,000.00
R. L. Coaker.....	Feb. 25, 1931	18920	14,217.95
C. E. Barclay.....	Feb. 25, 1931	18922	14,784.93
L. A. Stanley.....	Mar. 5, 1931	21963	16,380.89
J. C. Page.....	Mar. 5, 1931	21966	2,307.39
L. M. Griffin.....	Mar. 5, 1931	21967	7,246.94
Irving Adams.....	Mar. 5, 1931	21968	6,961.79
Irving Adams.....	Mar. 10, 1931	23223	11,222.26
S. F. Ventress.....	Mar. 10, 1931	23224	8,758.18
Lucia Lamar.....	Mar. 10, 1931	23225	11,903.74
			<hr/>
			\$626,358.39

and,

WHEREAS, the said warrants were included in the outstanding and unpaid warrants drawn on the treasury as provided by law amounting in the aggregate to \$16,943,357.12, upon which the Governor was authorized to pay interest by the warrant amendment to the Constitution of Alabama proposed by Senate Bill 5 passed by the Senate of Alabama on April 4, 1933 and by the House of Representatives of Alabama on April 14, 1933 and proclaimed ratified by the people of Alabama on August 2nd, 1933; and,

WHEREAS, said warrants were charged against the public school fund as and when the same were issued, and,

WHEREAS, said warrants were paid out of the public school fund and charged against the public school fund a second time, when so paid on, to-wit, February 14, 1933; and,

WHEREAS, the public school fund had the use of the said sum of \$626,358.39 but one time, and said sum is still a part of the floating debt of Alabama due on October 1st, 1932. NOW, THEREFORE,

Be it Enacted by the Legislature of Alabama:

Section 1. That the Warrant Commission composed of the Governor, State Comptroller and the Attorney General, created under an Act of the Legislature approved April 17, 1933, be and it is hereby required to issue to the Treasurer of the State of Alabama as custodian of the public school fund collected under the levies provided by Sections 256 to 260 inclusive of the Constitution of 1901, interest bearing warrants to be dated July 1, 1933 for the sum of \$626,358.39 as provided in said Warrant Act, representing a like amount of warrants which constituted a part of the floating debt of Alabama at the close of business on September 30, 1932, and due on October 1, 1932, and which were included in the outstanding and unpaid warrants drawn on the treasury as provided by law amounting in the aggregate to \$16,943,357.12, on which the Governor was authorized to pay interest from July 1st, 1933, by the amendment to the Constitution of Alabama proposed by Senate Bill No. 5 passed by the Senate April 4, 1933, and by the House of Representatives of Alabama on April 14, 1933, and proclaimed ratified by the people of Alabama on August 2, 1933.

Section 2. The Treasurer of the State of Alabama is hereby directed to pay said warrants when issued out of any surplus of proceeds of Income Tax from time to time after provision has been made for the payment of the next two maturing installments of interest, and the next maturing installment on principal of refunding bonds as provided in the Act of the Legislature of 1935 approved February 8, 1935, and after provision has been made for the payment of any other lawful charges against the proceeds of said income tax.

Section 3. This Act shall take effect and become operative immediately upon the passage and approval by the Governor.

Approved March 17, 1939.

No. 161)

(H. 51—Jones

AN ACT

To Create A Department of Industrial Relations for the State of Alabama, to provide for its personnel, powers, functions and duties and the performance thereof, to abolish the State Department of Labor, the Office of Commissioner of Labor, the Unemployment Compensation Commission, the offices of Chief Mine Inspector for coal mines and associate inspectors and the office of Compensation Commissioner, and to transfer their functions and duties, property, personnel and appropriations to the Department of Industrial Relations, the Director of Industrial Relations, and the Board of Appeals of said Department, to create a Board of Appeals for the Department of Industrial Relations and Boards of Mediation, and to provide for their personnel, powers, functions and duties and procedure, to provide for safe and healthful employment and places of employment, to make other provisions with respect to labor and the health, safety and welfare thereof and the relationship be-

tween employers and employees, to provide for the enforcement of and penalties for violation of the provisions of this Act, to make an appropriation for the administration of this Act and the Department of Industrial Relations, to repeal Section 1601 thru 1606 and Section 8329 of the 1923 Code of Alabama, and Section 7602 to 7607 inclusive and Section 7612 of the 1923 Code of Alabama, and to provide for the repeal of all conflicting laws.

Be it Enacted by the Legislature of Alabama:

Section 1. TITLE OF ACT. This Act shall be known and may be cited as the Industrial Relations Act of 1939.

Section 2. The Creation of the Department of Industrial Relations. Seal of the Department. There is hereby created the Department of Industrial Relations of the State of Alabama, which shall be an executive and administrative department of the State. The Department of Industrial Relations shall have a seal, which shall be affixed to official acts and deeds of the Department of Industrial Relations and the Director of Industrial Relations by him.

Section 3. The Director of Industrial Relations. The Department of Industrial Relations shall be headed by and shall be under the direction, supervision and control of an officer, who shall be known and designated as the Director of Industrial Relations. The Director of Industrial Relations shall be the advisor of the Governor and the Legislature in matters relating to employer-employee relations and the welfare of the wage-earners of the State. He shall be responsible to the Governor for the administration of the Department of Industrial Relations. The Director of Industrial Relations shall be appointed by and shall hold office at the pleasure of the Governor. Vacancies for any reason shall be filled in the same manner as original appointments are made. Before entering upon the discharge of his duties, the Director of Industrial Relations shall take the constitutional oath of office and shall give bond in such penalty as may be fixed by the Governor (but such penalty shall not be less than \$10,000) conditioned upon the faithful discharge of his duties. The premium on his bond shall be paid out of the State Treasury. The annual salary of the Director of Industrial Relations shall be fixed by the Governor, but shall not, in any event, exceed \$6,000 per annum. Such salary shall be payable at the same time and in the same manner as the salaries of other State officers. The Director of Industrial Relations is authorized and empowered to make such agreements as may be necessary or proper with the Social Security Board, the United States Department of Labor, or any other agency, department or bureau of the Federal Government with respect to the proration between the State of Alabama and such Agency of the Federal Government of the salary paid to the Director of Industrial Relations by virtue of the provisions of this section. The Di-

rector of Industrial Relations shall devote his full time to his official duties and shall hold no other lucrative position while serving as Director of Industrial Relations.

Section 4. Functions and Duties of the Department of Industrial Relations. The general functions and duties of the Department of Industrial Relations shall be as follows: (1) to administer all labor laws and all laws relating to the relationship between employer and employee, including laws relating to hours of work, child labor, female employees, working conditions and safety and health in places of employment. (2) To promote voluntary arbitration, mediation and conciliation of disputes between employers and employees and to avoid insofar as possible the necessity of resorting to strikes, lockouts, boycotts, blacklists, discriminations, and legal proceedings in matters of employment. (3) To investigate the cause and make reports to the Governor concerning any strike, lockout, boycott, blacklist or other dispute between employers and employees. (4) To make or cause to be made all necessary inspections to determine whether or not the laws, the administration of which has been delegated to the Department of Industrial Relations, and rules and regulations issued pursuant thereto are being complied with by employers and employees, and to take such action as may be necessary to enforce compliance. Provided, however, that there shall be no inspection of boilers which have been inspected, approved, and insured by an insurance company authorized to do business in the State of Alabama. (5) To propose to the Board of Appeals, hereinafter provided for, such rules and regulations, or amendments thereto and repeals thereof, as may be deemed advisable for the prevention of accidents (including steam boiler explosions) or the prevention of sickness and diseases in employment and places of employment (including mines) and for the construction, repair and maintenance of places of employment, places of public assembly and public buildings. The Director of Industrial Relations may appoint committees composed of employers, employees, and experts to suggest and assist in the preparation of rules and regulations or amendments thereof. (6) To give instructions and information and to conduct educational programs for the purpose of promoting safety and health in employment and places of employment and to teach first aid. (7) To administer, by and under the direction of a Director of Industrial Relations, the Unemployment Compensation law and to perform all functions and duties heretofore performed by the Unemployment Compensation Commission of Alabama, except as herein otherwise provided. (8) To cooperate with all authorities of the United States having powers and duties under the Wagner-Peyser Act, approved June 6, 1933 (48 Stat. 113, United States Code, Title 29, Section 49) entitled "An Act to provide for the establishment of a national employ-

ment system and for cooperation with the states in the promotion of such system and for other purposes," and to do and perform all things necessary to secure for the State of Alabama the benefits of such Act and the promotion and maintenance of a system of public employment offices. The Department of Industrial Relations is hereby designated as the State agency and vested with all powers necessary to cooperate with the United States Employment Service or its successor. (9) To perform all functions and duties heretofore performed by the Compensation Commissioner of the State of Alabama, to enforce the submission to it of all reports required to be made to such Commissioner, and to make all studies and reports authorized or required to be made by such Commissioner. (10) To make investigations and studies and to collect, collate and compile statistical information and to make and publish reports, concerning the conditions of labor generally, including living conditions, hours of work, wages paid, safety devices, safety guards, means and methods of protecting against accidents, illness and diseases in employment, and concerning all matters relating to the enforcement and effect of the provisions of this Act and the rules and regulations issued pursuant thereto and other labor laws and laws relating to the relationship between employer and employee. The Director of Industrial Relations shall deliver a copy of each such report to every person making application therefor. (11) To make an annual report to the Governor covering the activities and accomplishments of the Department of Industrial Relations during the preceding fiscal year, accompanied by the recommendations of the Director of Industrial Relations. The report shall be printed and the Director of Industrial Relations shall deliver a copy to every person making application therefor. (12) To make recommendations to the Legislature for the enactment of laws which, on the basis of information and statistics compiled by the Department of Industrial Relations, appear to be desirable for the protection of laborers and for promoting and fostering amicable relations between employers and employees.

Section 5. Transfer of Functions and Duties of Other Departments and Agencies to the Department of Industrial Relations. All functions and duties heretofore assigned by law to any department, board, bureau, commission, agency or office of the State but assigned by this Act to the Department of Industrial Relations shall be performed by the Department of Industrial Relations or by the Director of Industrial Relations or his authorized representatives; and any such department, board, bureau, commission, agency or office is hereby relieved of such functions and duties, except that the Executive Director appointed by the Unemployment Compensation Commission shall continue to perform the functions and duties heretofore required of the Unemployment Compensation Commission until such a time as the Di-

rector of Industrial Relations shall formally notify the Governor in writing that the Director of Industrial Relations is ready to assume the functions and duties of administering the Unemployment Compensation Law and until the date specified by the Governor in a declaration filed with the Secretary of State as being the date on which the transfer of such duties and functions to the Director of Industrial Relations shall become effective. The following sections, which provide for the specific transfer of certain functions and duties to the Department of Industrial Relations, are not intended to limit the generality of the foregoing provision, it being the intention of the Legislature in enacting this Act to bring together all such functions and duties in the Department of Industrial Relations for purposes of economy and effective administration.

Section 6. Abolition of the Department of Labor and of the Office of Commissioner of Labor: Transfer of their Functions and Duties to the Department of Industrial Relations. The Department of Labor and the office of Commissioner of Labor are hereby abolished, and their functions and duties are hereby transferred to and conferred upon the Department of Industrial Relations.

Section 7. Abolition of the Offices of Chief Mine Inspector and of Associate Inspectors and Transfer of the Functions and Duties to the Department of Industrial Relations; Ex-Officio Chairman of the Board of Mine Examiners. The offices of Chief Mine Inspector for coal mines and of associate inspectors are hereby abolished and their functions and duties are hereby transferred to and conferred upon the Department of Industrial Relations. The Chief of the Division of the Department of Industrial Relations charged with the duty of inspecting mines or such other employee of that Division as the Director of Industrial Relations may designate shall be ex-officio Chairman of the Board of Mine Examiners operating under the provision of Chapter 41, Article 1, of the Alabama Code of 1923. The Chief of the Division of the Department of Industrial Relations charged with the duty of inspecting and supervising the mining industry shall be stationed in the city or town as near the center of such mining industry as is practical.

Section 8. Abolition of the Unemployment Compensation Commission and Transfer of its Functions and Duties to the Director of Industrial Relations or His Authorized Representative and to the Board of Appeals. The Unemployment Compensation Commission of Alabama is hereby abolished. All of its functions and duties under and in the administration of the Unemployment Compensation Act, Act No. 447, General Laws of Alabama, approved September 14, 1935, Acts of 1935, pp. 950-967, entitled, "An Act to create a system of unemployment compensation; to

provide for an unemployment compensation fund; to provide for contributions to such fund; to provide for benefit payments from such funds; to provide eligibility conditions for such benefits; to provide for the settlement of benefit claims; to provide for judicial review of disputed benefit claims; to create an Unemployment Compensation Commission and to provide for its appointment, compensation and prescribe its powers and duties; to provide for the appointment and compensation of other employees and the maintenance and other expenses of such commission; to accept the benefit of an Act of Congress, approved June 6, 1933, entitled "An Act to provide for the establishment of a national employment system and for cooperation with the states in the promotion of such system and for other purposes"; and to provide for the creation of an Alabama State Employment Service and to prescribe its powers, duties and functions; to authorize reciprocal benefit arrangements with other states or the Federal Government; to prohibit the waiver of rights and benefits arising hereunder; to limit attorney's fees in cases arising under this Act; to regulate alienation of benefits; to provide penalties for failure to comply with or violations of this Act; to establish an Unemployment Administration Fund; to appropriate funds to maintain the same; and to retain the right to amend or repeal this Act," as amended, are conferred upon the Director of Industrial Relations or his legally authorized representative as of the date specified in the declaration filed by the Governor with the Secretary of State, which declaration is provided for in Section 5 of this act, except that of hearing and deciding appeals from decisions of Appeal Tribunals (provision for the creation and appointment of which Appeal Tribunals is contained in Section 14 (1) (a) of this Act) and except appeals provided for in Section 14 (1) (g) of this Act, which functions and duties are transferred to and conferred upon the Board of Appeals, hereinafter provided for.

Section 9. Abolition of the Office of Compensation Commissioner and Transfer of his Functions and Duties to the Department of Industrial Relations. The office of Compensation Commissioner is hereby abolished and all of the functions and duties of the Compensation Commissioner (and of the Superintendent of Insurance as Ex-officio Compensation Commissioner and of the Director of the Department of Archives and History as ex-officio Compensation Commissioner) are hereby transferred to and conferred upon the Department of Industrial Relations.

Section 10. Transfer of Funds. (a) Transfer of Appropriations or Grants. All appropriations, grants or allotments to any department, board, bureau, commission, agency or office of the State (including those abolished hereby) whether appropriated, allotted, or granted by the State of Alabama or by the Federal Government or the Social Security Board or its successor or any

other Federal Agency, for the purpose of performing any of the functions or duties hereby transferred to and conferred upon the Department of Industrial Relations or upon the Director of Industrial Relations are hereby transferred and assigned to the Department of Industrial Relations to be expended in the performance of its functions and duties, except that appropriations, allotments, or grants made to the State of Alabama or the Unemployment Compensation Commission or money received from other sources for the administration of the Unemployment Compensation Law shall not be transferred to the Department of Industrial Relations until the date specified by the Governor in the declaration filed with the Secretary of State, as provided for in Section 5 of this Act as being the date on which the transfer of such duties and functions to the Director of Industrial Relations shall become effective. Subsequent to the abolishment of the Unemployment Compensation Commission and prior to the transfer of the duties and functions of the Unemployment Compensation Commission to the Director of Industrial Relations all appropriations, allotments, or grants then on hand or made to the State of Alabama or the Unemployment Compensation Commission or money received from other sources for the administration of the Unemployment Compensation Law shall be expended by the Executive Director appointed by the Unemployment Compensation Commission, and shall be expended according to the provisions of the Unemployment Compensation Law and rules and regulations adopted by the Unemployment Compensation Commission pursuant to said Law. Anything herein to the contrary notwithstanding, all appropriations heretofore and hereafter to be made for the administration of the Unemployment Compensation Law and all moneys heretofore or hereafter to be allotted or apportioned by the Federal Government or the Social Security Board or its successor or any other Federal Agency or received from any other source to or for the State of Alabama for the administration of the Unemployment Compensation Law shall be held and deposited in and credited to the Unemployment Compensation Administration Fund and expended solely for such administration; and all appropriations heretofore or hereafter to be made for the promotion or maintenance of a system of public Employment Offices and all moneys heretofore or hereafter to be allotted or apportioned by the Federal Government or the United States Employment Service or its successor, or any other Federal Agency pursuant to the provisions of said Wagner-Peyser Act or other Act of Congress for the purpose of promoting or maintaining a system of public Employment Offices shall be held or deposited in and credited to the Employment Service Fund and expended solely for the purpose of promoting and maintaining such assistance. (b) Unemployment Compensation Fund. The Unemployment Com-

pensation Fund provided for in Section 3 (a) of the Unemployment Compensation Act as amended is transferred to the Department of Industrial Relations, to be administered by the Director of Industrial Relations, except, however, that such transfer shall not be made until the date specified by the Governor in the declaration filed with the Secretary of State, as provided for in Section 5 of this Act as being the date on which the transfer of such functions and duties to the Director of Industrial Relations shall become effective. Subsequent to the abolishment of the Unemployment Compensation Commission and prior to the transfer of the functions and duties of the Unemployment Compensation Commission to the Director of Industrial Relations the Unemployment Compensation Fund shall be administered by the Executive Director appointed by the Unemployment Compensation Commission, and shall be administered according to the provisions of the Unemployment Compensation Law and rules and regulations adopted by the Unemployment Compensation Commission pursuant to said law.

Section 11. Transfer of Records, Equipment, etc., to the Department of Industrial Relations. All books, records, accounts, documents, papers, furniture, fixtures, supplies, material, equipment, and other personal property possessed or used by any department, board, bureau, commission, agency or office of the State (including those abolished hereby) in connection with the performance of any of the functions or duties transferred to and conferred upon the Department of Industrial Relations by this Act are hereby transferred and assigned to the Department of Industrial Relations and shall be delivered upon the request of the Director of Industrial Relations.

Section 12. Powers of the Director of Industrial Relations. (a) All functions and duties of the Department of Industrial Relations shall be exercised by the Director of Industrial Relations acting by himself or by and through such administrative divisions or such officers or employees as he may designate. The Director of Industrial Relations shall have all power and authority necessary or convenient to carry out the functions and duties of the Department of Industrial Relations. In all cases in which the functions and duties of any other State department, board, bureau, commission, agency or office are herein transferred to and conferred upon the Department of Industrial Relations, all power and authority heretofore conferred upon any officer or employee of such department, board, bureau, commission, agency or office in connection with such functions and duties are hereby transferred to and conferred upon the Director of Industrial Relations. The Director of Industrial Relations shall serve in every capacity with respect to such functions and duties as any such officer or employee. In the performance of such functions and duties and in the exercise of such

powers and authorities, the Director of Industrial Relations and all other officers and employees of the Department of Industrial Relations shall, however, be subject to all legal restrictions, limitations, conditions and penalties, civil and criminal with respect to the performance of such functions and duties and the exercise of such powers and authorities. All reports and statements required to be made to any such State Department, board, bureau, commission, agency or office shall hereafter be made to the Department of Industrial Relations. (b) It shall be the duty of the Director of Industrial Relations to administer the said Unemployment Compensation Act, as amended; and he shall have power and authority to adopt and enforce all reasonable rules and orders necessary or suitable to that end, require any reports, and take any other action (consistent with the provisions of the said Unemployment Compensation Act, as amended) necessary or suitable to that end. Rules and regulations adopted by the Unemployment Compensation Commission prior to its abolishment by this Act shall remain in full force and effect until specifically modified, amended or repealed by the Director of Industrial Relations.

Section 13. Creation of the Board of Appeals. There is hereby created and established the Board of Appeals for the Department of Industrial Relations. The Board of Appeals shall exercise its own judgment and discretion in all matters entrusted to it, and, to that extent, shall be entirely separate and distinct from and independent of the Department of Industrial Relations, but it shall have offices with the Department of Industrial Relations, and an employee of the Department of Industrial Relations shall act as its clerk. All proper expenses of the Board of Appeals shall be paid from the appropriations to the Department of Industrial Relations in the same manner as expenses of the Department are paid. There shall be three members of the Board of Appeals, all of whom shall be appointed by the Governor, subject to confirmation by the Senate, for a term of office of six years, or until their successors are appointed, except that the first appointments of members of the Board of Appeals shall be for terms of two, four and six years respectively. One member of the Board shall be a person who, on account of his previous employment or affiliations, shall be generally classified as a representative of employers. One member of such Board shall be a person who, on account of his previous employment or affiliation, shall be generally classified as a representative of employees. One member of the Board shall represent the interest of the public, shall not be generally classified as a representative of employers or of employees, and the member representing the public shall be chairman of the Board of Appeals. Before entering upon the discharge of his duties, each member of the Board of Appeals shall take the constitutional oath of office. No member of the Board of Appeals shall hold any other public office or be employed by the

Federal Government, the State or any county or municipal corporation. Members of the Board of Appeals shall receive no salary but shall be entitled to \$10 each for each day or part thereof necessarily spent in the discharge of their official duties, plus a reasonable travel expense allowance, not exceeding that allowed to State employees. Members of the Board of Appeals shall be subject to impeachment as are other State officers. Vacancies for any reason shall be filled by appointment by the Governor for the unexpired term, and any appointments made while the senate is not in regular session shall be effective ad interim. No member of the Board of Appeals shall hear or determine an appeal in any case in which he is a directly interested party. The Board of Appeals shall not hear or determine any appeal unless each of the three members thereof or their alternates are present. The Governor shall immediately, whenever it is shown to his satisfaction that a member of the Board of Appeals is disqualified for any reason or cannot attend a session of the Board of Appeals, appoint an alternate or alternates for the member or members so disqualified or absent.

Section 14. Functions and Duties, Powers and Procedure of the Board of Appeals. The functions and duties of the Board of Appeals shall be as follows: (1) To hear and determine appeals under said Unemployment Compensation Law. (a) The Director of Industrial Relations shall, as soon as practicable, provide by rules or regulations, for the creation and organization of one or more Appeal Tribunals, consisting in each instance of an officer or an employe of the Department of Industrial Relations, which tribunals shall, after affording the parties reasonable opportunity for fair hearing, promptly hear and decide all appeals from determinations of any deputy of the Department of Industrial Relations on the validity or amount of any benefit claim. The parties including claimant's most recent employer shall be duly notified by mail of the tribunal's decision, together with the reasons therefor. No person as an Appeal Tribunal shall participate in the hearing or disposition of any claim upon appeal thereof, if he is an interested party. At any such hearing all testimony shall be taken down, but need not be transcribed unless an appeal is applied for or taken. (b) Provisions for reviewing decisions of Appeal Tribunals on the validity or amount of any Unemployment Compensation benefit claim. The Board of Appeals may on its own motion at any time before a decision of an Appeal Tribunal becomes final, affirm, modify, or set aside any decision of an Appeal Tribunal on the basis of the evidence previously submitted in such case, or direct the taking of additional evidence, or may permit any person in interest to initiate further appeals before it. The Board of Appeals may remove to itself or transfer to another Appeal Tribunal the proceedings on any claim pending before an Appeal Tribunal. The Board of Appeals shall promptly notify by mail the persons in

interest of its findings and decision, together with the reasons therefor. (c) The manner in which disputed claims shall be presented and the conduct of hearings and appeals before it shall be in accordance with regulations prescribed by the Board of Appeals. (d) The decision of an Appeal Tribunal shall become final after the expiration of ten days from the date of notification provided for in Section 14 (1) (a) hereof unless within that time application be made to the Board of Appeals for permission to appeal to the Board of Appeals. Unless such application is granted within ten days after its filing the applicant may, within the following ten days, take an appeal from the decision of the Appeal Tribunal to the Circuit Court of the county of the residence of the claimant. (e) Limitation of Time for Appeals to Courts. Any decision of the Board of Appeals in the absence of an appeal therefrom as herein provided shall become final ten days after the date of notification or mailing thereof. The Director of Industrial Relations shall be deemed to be a party to any judicial action involving any such decision. (f) Court Review; Within ten days after a decision of the Board of Appeals has been made and notification thereof has been given the claimant, the employer or a former employer in interest of claimant, the Director of Industrial Relations, or any other person in interest may secure a judicial review thereof by filing notice of appeal in the circuit court of the county of the residence of the claimant. Notice of appeal need not be verified, but shall state the grounds upon which a review is sought, and a copy thereof shall be filed in the office of the Director of Industrial Relations, and such filing shall be deemed completed service on all parties. The Director of Industrial Relations shall forthwith mail one copy of such notice to each person in interest. The Clerk of the Board of Appeals shall certify and file with said court all documents and papers and a transcript of all testimony taken in the matter, together with the finding of fact and decision of the Appeal Tribunal or of the Board of Appeals as the case may be. No circuit court shall permit an appeal from a decision allowing or disallowing a claim for Unemployment Compensation benefits unless the decision sought to be reviewed is that of an Appeal Tribunal or the Board of Appeals. Trial in the Circuit Court shall be de novo. Such appeals shall be heard in a summary manner, and shall be given precedence over all other civil cases except cases arising under the Workmen's Compensation Law of this State. An appeal may be taken from the decision of the Circuit Court in the same manner, as is provided in civil cases, except that such appeal must be taken within thirty days after final ruling of the Circuit Court. It shall not be necessary, in any judicial proceeding under this paragraph, to enter exceptions to the rulings of the Board of Appeals and no bond shall be required for entering such appeal. Upon the final determination of such judicial proceeding, the Board of Appeals shall enter an

order in accordance with such determination. (g) Any appeal from a determination of a deputy with respect to any claim, the amount or validity of which is or may be affected by any labor dispute or alleged labor dispute shall be by and before the Board of Appeals in the first instance. (2) To hold public hearings on proposed safety rules and regulations and amendments and repeals thereof, and to promulgate and publish such rules and regulations and amendments and repeals as provided in this Act. (3) To hear and determine appeals from the finding of any officers or employees of the Department of Industrial Relations that any machine, tool, equipment (including steam boilers) or structure is in a dangerous condition or is not properly guarded or is dangerously placed when the discontinuance of the use thereof has been ordered. When such appeal is taken by a person affected by such order, no appeal shall be taken from such determination of the Board of Appeals, except on questions of law or on the ground that the determination is not supported by the preponderance of the evidence; and unless an appeal shall have been taken within ten days after the determination of the case by the Board of Appeals and after notice of such determination shall have been mailed by registered mail, postage prepaid, to the person affected by such order at the address furnished by him, or, if none shall have been furnished, at the address of his place of business, such an appeal shall be waived. Such appeals shall be taken to the Supreme Court. Any person affected by such order may, however, as an alternative to an appeal to the Board of Appeals, appeal to the Circuit Court of the County in which such machine, tool, equipment or structure is located, and trial in such court shall be de novo, and in such appeal the Director of Industrial Relations shall be styled as plaintiff and the party appealing as defendant and the burden of proof shall rest upon the Director. If any such person at the time of taking the appeal shall fail to request a jury, the trial shall be by the court without a jury. If any such person shall request an immediate hearing on such appeal and shall not request a jury trial, such appeal shall be a preferred case and shall be immediately heard and determined by any judge of said Court to whom application is made, at any location in said circuit. Either party shall have the right of appeal from the judgment or decree of the Circuit Court to the Supreme Court. Appeals from such finding of the Board of Appeals or of the Circuit Court shall be taken within ten days from the effective date of the same by filing a notice of appeal with the Clerk of the Board, or Clerk of the Circuit Court, as the case may be, which notice shall describe the finding from which the appeal is taken, and a copy thereof shall forthwith be mailed to the Director of Industrial Relations by the Clerk. An appeal by the defendant from such finding shall operate to supersede the same if at the time of taking said appeal the party taking the same shall file with

the notice of appeal a bond in such sum as the Board of Appeals or Judge of the Circuit Court, as the case may be, may prescribe, with sufficient surety to be approved by the Clerk of said Board or Court, as the case may be, payable to the Director of Industrial Relations with condition that the party appealing will prosecute said appeal to effect and if he fail therein will pay all damage which any person may sustain on account of any injury which may be proximately caused by the dangerous condition of the machine, too, equipment or structure affected by such finding. Court Costs. All court costs shall be taxed against the party or parties against whom judgment is rendered and against the State when rendered against the Director of Industrial Relations.

Section 15. Procedure of the Board of Appeals. The Board of Appeals shall have power and authority to prescribe its own procedure. A full and complete record shall be kept of all proceedings before the Board of Appeals by the employee of the Department of Industrial Relations designated as its clerk. All testimony in any appeal case before the Board of Appeals shall be taken down by a stenographer, but need not be transcribed unless an appeal is taken to the courts. The testimony in hearings on safety rules and regulations, amendments and repeals thereof need not be recorded.

Section 16. Sessions of the Board of Appeals. The Board of Appeals shall meet only at such times as the Director of Industrial Relations or the Governor shall determine a session to be in the public interest and notify the members thereof in writing stating the time of convention. The Board of Appeals shall remain in session no longer than is necessary to dispose of matters pending for their consideration and determination or other action.

Section 17. Duties of Employers as to Safety: Every employer shall furnish employment which shall be reasonably safe for the employees engaged therein and shall furnish and use safety devices and safeguards and shall adopt and use methods and processes reasonably adequate to render such employment and the places where the employment is performed, including mines, reasonably safe for his employees and others who are not trespassers, and he shall do everything reasonably necessary to protect the life, health, safety of his employees and others who are not trespassers. And every employer and every owner of a place of employment, place of public assembly or public building now or hereafter constructed, shall so construct, repair and maintain the same as to render it reasonably safe; provided, however, that nothing herein contained shall be construed or applied so as to impose upon any such owner any duties to his tenant, the members of his family, employees, guests or invitees or others entering upon the premises under the tenant's title, or the public, not now imposed upon him by law. When used in this act "employer" includes every

person, firm, corporation, partnership, joint stock association, agent, manager, representative, foreman or other person having control or custody of any employment, place of employment or of any employee, but the terms of this Act shall not be construed to cover the employment of agricultural workers, or domestic servants. The word "employee" as used in this Act does not and shall not include agricultural workers or domestic servants. When used in this Act "safe" and "safety" as applied to any employment or place of employment, place of public assembly, or public building shall mean "reasonably safe" or "reasonable safety" consistent with the lawful purpose of the use and occupancy of the place of employment, place of public assembly or public building and the inherent danger of the employment, the process, operation or situation involved, and, shall include conditions and methods of sanitation and hygiene reasonably necessary for the protection of the life, health and safety of the employees and others who are not trespassers.

Section 18. Prevention of Use of Dangerous Machines, Tools, Equipment, and Structures. If the Director of Industrial Relations or his authorized representative finds that any machine, tool, equipment (including steam boilers), structure or any part thereof, is in a dangerous condition or is not properly guarded or is dangerously placed, he shall attach thereto a notice warning all persons against the use thereof and setting out in complete detail the condition which renders it unfit for service. If two other authorized representatives of the Director of Industrial Relations after inspection concur in such findings and sign said notice, such machine, tool, equipment or structure shall not thereafter be used until it is made safe or the required safeguards or safety appliances or devices as set forth in the notice attached thereto have been fully corrected and notice of such correction is sent to the Department of Industrial Relations by registered mail, accompanied by a certificate from a competent mechanic certifying the correction of such defects. If after such notice has been so signed by three authorized representatives of the Department of Industrial Relations, any person operates, uses or permits the use of such machine, tool, equipment or structure, in addition to any penalty provided for violation of provisions of this Act, the Director of Industrial Relations may apply to the Circuit Court, in equity, of the county in which such machine, tool, equipment or structure, is located by petition setting forth the facts, including a copy of the notice attached to such machine, tool, equipment, or structure; and he shall be entitled to have a temporary injunction issue against such person or persons prohibiting the use thereof. No temporary injunction shall issue except upon a verified petition and no permanent injunction shall issue unless the judge hearing the case shall make the same finding as is required by the Director of Industrial Relations or his authorized representatives. The judge may, in his discretion,

examine and view such machine, tool, equipment, or structure. Anything in this Act to the contrary notwithstanding, no criminal penalty shall attach to the violation of any such notice of the Director of Industrial Relations or his authorized representatives, during the actual pending of any strike, lockout, or other labor dispute. The Director of Industrial Relations may and he is hereby authorized to permit the temporary use of any machine, tool, equipment or structure, found by three authorized representatives to be in a dangerous condition, dangerously placed, or not properly guarded, for a reasonable time to be prescribed by him, in order that the owner or operator thereof may rectify such condition and during such time no penalty shall attach on account of the use of the same and the Director may extend such time or revoke such permission as the case may require, and may remit any penalty which has attached on account of the use thereof.

Section 19. Proposal of Rules and Regulations. Rules and regulations or amendments or the repeal thereof, except those affecting the administration of the Unemployment Compensation Law, may from time to time be proposed to the Board of Appeals by the Director of Industrial Relations or any officer or employee of the Department of Industrial Relations designated by him or any committee of employers, employees and experts appointed by him for that purpose. All such rules, regulations, and amendments shall be for the purpose of making more definite and certain the duties of employers as set forth in this Act and any rule, regulation or amendment, excepting those affecting administration of the Unemployment Compensation Law, which does not conform to the standards herein set forth shall be invalid. The promulgation, amendment, or repeal of rules and regulations affecting the administration of the Unemployment Compensation Law shall be by the Director of Industrial Relations in the manner prescribed by the Unemployment Compensation Law. The Director of Industrial Relations shall deliver to any person making application therefor a copy of all rules and regulations as from time to time promulgated under any of the provisions of this Act.

Section 20. Public Hearings on Proposed Rules and Regulations. Before any rule or regulation is adopted, amended or repealed by the Board of Appeals there shall be a public hearing thereon, notice of which shall be published at least once, not less than ten days prior thereto in a daily newspaper published in Montgomery and in such other newspaper or newspapers as the Board of Appeals may prescribe. Any person interested shall have a right to be heard at such hearing.

Section 21. Effective Date of Rules and Regulations; Publication. All rules and regulations and all amendments and repeals thereof by the Board of Appeals shall, unless otherwise prescribed by the Board of Appeals, take effect thirty days after the first pub-

lication thereof and after a certified copy thereof shall have been filed in the office of the Secretary of State. Every such rule and regulation adopted and every amendment and repeal thereof by the Board of Appeals shall be published in such manner as the Board of Appeals may determine. The Director of Industrial Relations shall deliver a copy to every person making application therefor, and he shall include the text of each such rule or regulation, amendment or repeal thereof, in an appendix to the annual report of the Department of Industrial Relations next following the adoption, amendment or repeal of such rule or regulation.

Section 22. Variations. If there shall be practical difficulties or unnecessary hardships in carrying out a rule or regulation of the Board of Appeals, the Board may, after a public hearing make a variation from such requirements if the spirit of the rule and law shall be observed. Any person affected by such rules, or his agent or attorney, may petition the Board for such variations, stating the ground therefor. The Board shall fix a date for hearing on such petition and give reasonable notice thereof to the petitioner. A properly indexed record of all variations made shall be kept by the Clerk of the Board of Appeals in the office of the Department of Industrial Relations and open to public inspection.

Section 23. Petition and Hearing. Any person in interest, his authorized agent or attorney may petition the Board of Appeals for a review of the validity or reasonableness of any rule or regulation adopted, amended or repealed by the Board of Appeals under the provisions of this Act. The petition shall be verified, shall be filed with the Board of Appeals and shall state the rule or regulation proposed to be reviewed and in what respect it is claimed to be invalid or unreasonable. The Board may join in one proceeding all petitions alleging the invalidity or unreasonableness of substantially similar rules or regulations. The filing of such petition shall operate to stay all proceedings under such rule or regulation until the determination of such review. The Board of Appeals shall order a hearing if necessary to determine the issued raised or, if the issues have been considered in a prior proceeding, the Board of Appeals may, without a hearing, confirm its previous determination. Notice of the time and place of hearing shall be given to the petitioner and such other person as the Board of Appeals may determine. If the Board of Appeals finds that the rule or regulation is invalid or unreasonable, it shall revoke or amend it.

Section 24. Review of Rules. Any employer, owner or other person in interest, being dissatisfied with any rule or regulation of the Board of Appeals, may commence an action in the Circuit Court of the County wherein such employer, owner or other person in interest resides, or has his or its principal place of business against the Director of Industrial Relations as defendant to enjoin and set aside any such rule of regulation on the ground that it is

invalid or unreasonable. The defendant shall be served with a copy of the complaint. Service of the complaint may be made by serving a copy or second original by the sheriff or any deputy sheriff of any county wherein the Director of Industrial Relations may be found, or by filing a copy in the office of the Director of Industrial Relations.

Section 25. Duty to Furnish Information: Keeping of Records; Access to Records. Every employer, or owner, shall furnish to the Department of Industrial Relations or the Board of Appeals of any information which the Department of Industrial Relations or the Board of Appeals is authorized to require, and shall make true and specific answers to all reasonable questions, whether submitted orally or in writing, authorized to be put to him. The Director of Industrial Relations and any authorized representative of the Department of Industrial Relations shall, for the purpose of examination, have access to and the right to copy from any book, account, record, pay roll, paper or documents relating to the employment of workers in such manner as may be reasonable and at reasonable times. Information secured under the provisions of this section or section 10 (g) of Unemployment Compensation Act, as amended, shall not be published or be open to public inspection in any manner revealing the employer's or owner's identity; and any officer, member or employee of the Department of Industrial Relations or the Board of Appeals guilty of violating this provision shall be subject to the penalties provided in this Act. Nothing in this section shall be construed to limit or restrict the provisions of Section 10 (g) of the Unemployment Compensation Act, as amended, imposing duties upon employers or granting powers to the Director of Industrial Relations, as successor to the Unemployment Compensation Commission.

Section 26. Right of Entry. The Director of Industrial Relations or his authorized representative shall have the power and authority to enter any place of employment, place of public assembly, or public building for the purpose of collecting facts and statistics relating to the employment of workers or for the purpose of making inspections to determine whether or not the labor law and laws relating to the relationship between employer and employee and the rules and regulations adopted pursuant to the provisions of this Act are being observed. No employer or owner shall refuse to admit the Director of Industrial Relations or his authorized representative to his place of employment, public building or place of public assembly for the purpose of making any reasonable inspection or impede or obstruct him in making any reasonable inspection.

Section 27. Power as to Witnesses. The Director of Industrial Relations, any officer of the Department of Industrial Relations designated by the Director and the members of the Board of Ap-

peals, in the performance of any function or duty or the execution of any power prescribed by law, shall have the power to administer oaths, certify to official acts, take and cause to be taken depositions of witnesses, issue subpoenas, compel the attendance of witnesses and the production of papers, books, accounts, pay rolls, documents, records and testimony. In the event of failure of any person to comply with any subpoena lawfully issued, or on the refusal of any witness to produce evidence or to testify as to any matter regarding which he may be lawfully interrogated, it shall be the duty of any court of competent jurisdiction or of the judge thereof, upon the application of the Director of Industrial Relations or any officer of the Department of Industrial Relations designated by the Director or any member of the Board of Appeals, to compel obedience by attachment proceedings for contempt, as in the case of disobedience of the requirements of a subpoena issued for such court or a refusal to testify therein. Witness fees and other expenses involved in proceedings under this section shall be paid to the extent necessary, at rates specified by the Director of Industrial Relations, from the Unemployment Administration Fund, when such expenses are in connection with the administration of the Unemployment Compensation Law.

Section 28. Enforcement. It shall be the duty of the Attorney General of the State and the several solicitors, upon the request of the Director of Industrial Relations or of any of his authorized representatives to prosecute any violation of any law, the administration or enforcement of which has been made a duty or function of the Department of Industrial Relations, or any rule or regulation adopted pursuant thereto. A solicitor's fee of five dollars (\$5) shall be taxed as costs against any defendant convicted.

Section 29. Penalties. Any person who violates or fails or refuses to comply with any requirement of this Act or any lawful rule or regulation of the Board of Appeals, adopted pursuant thereto for which no penalty has been otherwise provided, shall be guilty of a misdemeanor and upon conviction thereof shall be fined not less than ten dollars (\$10) nor more than one hundred dollars (\$100) or shall be imprisoned for not exceeding six months, or both so fined and imprisoned, for each such offense. Each day such violation, omission, failure or refusal continues shall be deemed a separate offense. Any person who shall knowingly testify falsely, under oath, or shall knowingly make, give or produce any false statement or false evidence under oath to the Director of Industrial Relations or an officer of the Department of Industrial Relations designated by him or to any member of the Board of Appeals shall be guilty of perjury.

Section 30. Divisions of the Department of Industrial Relations. The Director of Industrial Relations, with the approval of the Governor, may establish such division or divisions as may, in

his discretion be necessary or desirable for the administration or enforcement of any law or any rule or regulation with which the Department of Industrial Relations is charged or the performance of any of its functions or duties. Each division in the Department of Industrial Relations shall be headed by and be under the direction, supervision and control of an officer, who shall be designated as the Chief of such Division. All Chiefs of Division shall be appointed by the Director of Industrial Relations with the approval of the Governor. Before entering upon the discharge of their duties, such Chiefs of Division shall take the constitutional oath of office. Salaries of such Chiefs of Division other than the Division charged with the duties arising under the Unemployment Compensation Law and the present State Employment Service shall be fixed by the Director of Industrial Relations, with the approval of the Governor, and shall be paid in the same manner and at the same time as the salaries of other State officers, but not one of such salaries shall exceed \$4,500 per annum. Each of such officers shall devote his full time to his official duties and shall hold no other lucrative position while serving as such. The salary of the Chief of the Division charged with the duties arising under the Unemployment Compensation Law and the State Employment Service and the salaries of the Director of Unemployment Compensation and the Director of Employment Service shall be fixed by the Director of Industrial Relations, with the approval of the Governor and the Federal Agency or Agencies concerned, but not one of such salaries shall exceed \$4,500 per annum. It is one of the purposes of this Act to coordinate in one division of the Department of Industrial Relations, Unemployment Compensation and Employment Service. The Unemployment Compensation unit and the Employment Service unit shall be in one division of the Department of Industrial Relations under the direction of the chief of said Division. Within said division, but subordinate to the chief thereof, there shall be a full-time salaried Director of Unemployment Compensation and a full-time salaried Director of Employment Service, except that the Chief of the Division may also act in the capacity of Director of one of the said units.

Section 31. Employees of the Department of Industrial Relations. The Director of Industrial Relations shall, with the approval of the Governor, determine the number of employees needed for the efficient and economical performance of the functions and duties of the Department of Industrial Relations and the salaries to be paid all such employees. All employees heretofore employed by any department, board, bureau, commission, agency or office of the State (including those abolished by this Act), in connection with any of the functions or duties which have been transferred to and conferred upon the Department of Industrial Relations by this Act, the right to appoint or nominate such employees and all ap-

appropriations for the payment of such employees, are hereby transferred and assigned to the Department of Industrial Relations. The Director of Industrial Relations shall, however, have the right to discharge any such employee if, in his discretion, he shall conclude that the services of such employee are not needed or that the efficiency of the Department will be increased by the replacement of such employee. All employees determined to be needed and not transferred from some other department, board, bureau, commission, agency or office of the State and employees to replace employees so transferred shall be appointed by the Director of Industrial Relations. The Director of Industrial Relations is authorized and empowered to make such agreements as may be necessary or proper with the Social Security Board, the United States Department of Labor, or any other Agency, Department or Bureau of the Federal Government with respect to the proration of salaries and expenses paid to employees of the Department of Industrial Relations, whose duties are not exclusively in the performance of the functions of the Unemployment Compensation Division.

Section 32. Application of the Merit System Act. Anything in this Act to the contrary notwithstanding, all employees and officers of the Department of Industrial Relations (including the Chiefs of Division but not including the Director of Industrial Relations) shall be subject to the provisions of any law heretofore or hereafter enacted with respect to the method of selection and classification of State employees on a merit basis. Whether any such law shall have been heretofore or shall be hereafter enacted or not, however, the minimum standards that may be prescribed by the United States Employment Service or its successor with respect to the selection and classification of officers and employees engaged in the performance of any of the functions or duties of the Department of Industrial Relations having to do with the promotion and maintenance of a system of public employment offices, and the minimum standards that may be prescribed by the Social Security Board or its successor with respect to the selection and classification of officers and employees engaged in the performance of any of the functions and duties of the Department of Industrial Relations having to do with the administration of the Unemployment Compensation Law, shall be observed.

Section 33. Beginning of Operation of Department of Industrial Relations. The Department of Industrial Relations shall begin the performance of its functions and duties herein transferred to and conferred upon it as soon as practicable after the effective date of this Act and after the appointment and qualification of the Director of Industrial Relations, but each function or duty transferred to and conferred upon the Director of Industrial Relations from some other department, board, bureau, commission, agency or office of the State (whether abolished by this Act or not) shall

continue to be performed as before the effective date of this Act until the Director of Industrial Relations shall have notified the officer or employee in charge of such department, board, bureau, commission, agency or office that the Department of Industrial Relations is ready to assume the functions and duties of such department, board, bureau, commission, agency or office or some designated part of such duties or functions, at which time the transfer shall be effective, except that the Unemployment Compensation Law shall be administered in accordance with the provisions of Section 5 hereof, after the effective date of this Act and before the transfer of the functions and duties of the Unemployment Compensation Commission to the Director of Industrial Relations, as provided in Section 5 hereof.

Section 34. Administrative Rule. The Director of Industrial Relations may prescribe such general rules and regulations for the conduct of the Department of Industrial Relations as he may deem necessary or expedient to give effect to the provisions of this Act.

Section 35. Boards of Mediation. The Governor may, whenever he considers it expedient, appoint a Board of Mediation consisting of three members, for the purpose of gathering facts and information and hearing evidence concerning the cause of any strike, lockout, or other dispute or disagreement between employees or between any employer and his employees, for the purpose of making recommendations for the peaceable solution thereof, and if the parties involved in such strike, lockout or other dispute or disagreement shall in writing submit to such Board such strike, lockout or other dispute or disagreement for arbitration, which written submission must contain an agreement to abide by the determination or award of the Board, then also for the purpose of arbitrating such strike, lockout or other dispute or disagreement. One member of the Board shall be a person who, on account of his previous employment or affiliations, shall be generally classified as a representative of employers; one member of the Board shall be a person who, on account of his previous employment or affiliations, shall be generally classified as a representative of employees; one member of the Board shall represent the interest of the public, shall not be generally classified as a representative of employers or of employees and the member representing the public shall be Chairman of the Board. The Governor may, if he so elects, serve as a member thereof, in which event the Governor shall represent the interests of the public and serve as Chairman of the Board. Members of such Board shall be paid their necessary travel expenses and \$10 per day for each day the Board is necessarily in session, except that the Governor shall not be entitled to any such per diem allowance unless and only so long as the Board shall convene and sit in some place other than the City of Montgomery. The Board of Mediation shall have the same power and author-

ity to subpoena witnesses and to compel the production of books, records, documents, and papers as the Director of Industrial Relations or the members of the Board of Appeals have under this Act, and the same power and authority to enter any place of employment, place of public assembly or public building as the Director of Industrial Relations has under this Act, but none of the above provisions shall be construed to include lists or membership rolls. The Board of Mediation shall make a finding of facts and a recommendation for settling such strike, lockout, or other dispute or disagreement, and, if such strike, lockout or other dispute or disagreement shall have been submitted for arbitration, a determination or award, which may be enforced by any court in the same manner as other determinations or awards of matters submitted for arbitration. Such Board shall remain in session no longer than is necessary to accomplish the purposes for which it was appointed, and in no event more than (30) days in which to make a determination, and the board shall be allowed an additional ten (10) days time to make their findings of fact and recommendation for settling such strike, lockout, or other dispute, or disagreement, and, as soon as it shall have rendered its findings of fact, recommendation, determination or award, it shall be discharged. Copies of each finding of facts, recommendation, determination and award shall be submitted to the Governor, and the Director of Industrial Relations and to each party or a representative of each party to such strike, lockout, dispute, or disagreement. Section 7602 to 7607, inclusive, and Section 7612 of the Alabama Code of 1923 are hereby repealed.

Section 36. Severability. If any provision of this Act or the application thereof to any person, circumstance or situation shall be adjudged invalid, such adjudication shall not affect any other provision of this Act, or the application of the provision with respect to which such adjudication shall have been made to any other person, circumstance, or situation.

Section 37. Agreement with Federal Agencies. Nothing in this Act shall be construed or intended to prevent the Director of Industrial Relations from conforming if not in conflict with the provisions of this Act to minimum standards heretofore or hereafter adopted or promulgated by the Social Security Board, the Labor Department of the United States Government, or any other Agency of the Federal Government, for the administration of the Unemployment Compensation Law or Employment Service. The Director is hereby empowered and authorized to make such agreements not in conflict with the provisions of this Act with the Social Security Board, the United States Department of Labor, or any other Agency of the Federal Government, as may be necessary to conform to such minimum standards, or as may be necessary to conform to minimum standards adopted by the Social Security Board,

the United States Labor Department, or any other Agency of the Federal Government in connection with grants to the Department of Industrial Relations for the administration of the Unemployment Compensation Law or Employment Service.

Section 38. Repeal. All laws and parts of laws in conflict with any provision of this Act are, to the extent of such conflict, hereby repealed, except that subsections (c) (d) (e) (f) (g) and (h) of Section 7 and subsection (a) of Section 8 of the Unemployment Compensation Act, Act No. 447, General Laws of Alabama, approved September 14, 1935, Acts of 1935, pp. 950-967, entitled, "An Act to create a system of unemployment compensation; to provide for an unemployment compensation fund; to provide for contributions to such fund; to provide for benefit payments from such funds; to provide eligibility conditions for such benefits; to provide for the settlement of benefit claims; to provide for judicial review of disputed benefit claim; to create an Unemployment Compensation Commission and to provide for its appointment, compensation and prescribe its powers and duties; to provide for the appointment and compensation of other employees and the maintenance and other expenses of such Commission; to accept the benefit of an Act of Congress, approved June 6, 1933, entitled 'An Act to provide for the establishment of a national employment system and for cooperation with the states in the promotion of such system and for other purposes'; to provide for the creation of an Alabama State Employment Service and to prescribe its powers, duties and functions; to authorize reciprocal benefit arrangements with other states or the Federal Government; to prohibit the waiver of rights and benefits arising hereunder; to limit attorney's fees in cases arising under this Act; to regulate alienation of benefits; to provide penalties for failure to comply with or violations of this Act; to establish an Unemployment Administration Fund to appropriate funds to maintain the same; and to retain the right to amend or repeal this Act," as amended, are hereby repealed effective as of the date specified by the Governor in the declaration to be filed with the Secretary of State in accordance with the provisions of Section 5 of this Act.

Section 39. Appropriation. There is hereby appropriated out of any funds in the State Treasury, not otherwise appropriated, such amounts as may be necessary to carry out the provisions of this Act and to pay the salaries herein provided for and the expenses incurred hereunder.

Section 40. This act shall take effect immediately upon its approval by the Governor.

Approved March 14, 1939.

AN ACT

To create a Department of Conservation, to provide for its personnel, powers, functions and duties, to abolish the Department of Conservation of Game, Fish and Seafoods, The Alabama Oyster Commission, any corporation incorporated pursuant to the Alabama Oyster Commission Act of July 17, 1935, the State Commission of Forestry, the office of State Forester, the Alabama Monument Commission, and certain other departments, boards, bureaus, commissions, agencies and offices of the State, to transfer their functions and duties, employees, appropriations and property to the Department of Conservation, to create an advisory Board for the Department of Conservation, to provide for its personnel, powers, functions and duties, to provide for the consolidation of certain funds and moneys into the Conservation Fund, and to make other provisions concerning the wild life, timber and forest resources, state parks and monuments and historical sites of the State.

Be it Enacted by the Legislature of Alabama:

Section 1. TITLE OF THE ACT. This Act shall be known and may be cited as the Department of Conservation Act of 1939.

Section 2. CREATION OF THE DEPARTMENT OF CONSERVATION; SEAL OF THE DEPARTMENT. There is hereby created the Department of Conservation of the State of Alabama, which shall be an executive and administrative department in order to enable the Governor to exercise a direct and effective control over the natural resources, state parks and historical sites of the State and in order to bring together in one department for purposes of economy and efficiency all matters pertaining to the natural resources, state parks and monuments and historical sites of the State. The Department of Conservation shall have a seal, which shall be affixed to official acts and deeds of the Department of Conservation and of the Director of Conservation by him.

Section 3. FUNCTIONS AND DUTIES OF THE DEPARTMENT OF CONSERVATION. The general functions and duties of the Department of Conservation shall be as follows: (1) To protect, conserve and increase the wild life of the State and to administer all laws relating to wild life and the protection, conservation and increase thereof. (2) To protect, conserve and increase the timber and forest resources of the State and to administer all laws relating to timber and forestry and the protection, conservation and increase of such resources. (3) To make exploration, surveys, studies and reports concerning the wild life, timber and forest resources, state parks and monuments and historical sites in the State and to publish such thereof as will be of general interest. (4) To maintain, supervise, operate and control all State forests, parks, monuments and historical sites, except Mound State Monument and the First White House of the Confederacy. The serv-

ing and employing of attendants for all monuments and historical sites located on State-owned property in the City of Montgomery shall be performed by the Department of Finance. (5) To maintain, supervise, operate and control all State lands other than those specifically committed to the use of control of some other department, board, bureau, commission, agency, office or institution of the State. (6) to cooperate with and enter into cooperative agreements and stipulations with the Secretary of Agriculture of the United States or any other Federal officer or department, board, bureau, commission, agency or office, thereunto authorized, with respect to wild life restoration projects, the protection of timbered and forest-producing land from fire, the acquisition of forest lands to be developed, administered and managed as State forests, the production, procurement and distribution of forest trees and shrub planting stock, the carrying on of an educational program in connection therewith, the assistance of the owners of farms in establishing, improving and renewing wood lots, shelter belts, wind breaks and other valuable forest growth, the growing and renewing of useful timber crops, and the collection and publication of data with respect to wild life, the timber and forest resources, state parks and the monuments and historical sites or any other matters committed to the Department of Conservation by this Act; and to make and enforce all regulations and restrictions required for such cooperation, agreements or stipulations. (7) To carry on a program of education and public enlightenment with respect to the wild life, timber and forest and other natural resources, state parks and the monuments and historical sites of Alabama. (8) To make an annual report to the Governor concerning the activities and accomplishments of the Department of Conservation for the preceding fiscal year. (9) To recommend to the Legislature such legislation as may be needed further to protect, conserve, increase or to make available or useful the wild life, timber and forests and other natural resources, state parks and the monuments and historical sites of Alabama.

Section 4. ABOLITION OF CERTAIN AGENCIES; TRANSFER OF THEIR FUNCTIONS TO THE DEPARTMENT OF CONSERVATION. All departments, boards, bureaus, commissions, agencies and offices of the State exercising or authorized to exercise any of the functions or duties conferred upon the Department of Conservation by this Act, except the Department of Archives and History are hereby abolished, and all of their functions and duties, except as otherwise provided in the next succeeding section of this Act, are hereby transferred to and conferred upon the Department of Conservation. Without limiting the generality of the foregoing, the following departments, boards, bureaus, commissions, agencies, or offices of the State are hereby abolished and their functions and duties (except as other-

wise provided in the next succeeding section of this Act) are hereby transferred to and conferred upon the Department of Conservation: The Department of Conservation of Game, Fish and Seafoods, The Conservation Board, The Alabama Oyster Commission, Any corporation incorporated pursuant to the Alabama Oyster Commission Act, Act No. 226, General Laws of Alabama, approved July 17, 1935, Act of 1935, pp. 618-624, entitled "An Act to provide for and authorize creation and incorporation of a Commission to be known as the Alabama Oyster Commission for the purpose of preserving the oyster and shrimp life in the public waters of this State and to increase and improve the supply thereof and to prevent undue or unnecessary depletion thereof; to prescribe its powers and duties; to provide for securing necessary funds by means of grants or loans for such purpose; authorizing it to issue bonds and providing for the payment of such bonds; to prescribe the rights and powers of the purchasers of any bonds issued." The State Commission of Forestry, The Office of State Forester, The Alabama Monument Commission.

Section 5. THE BONDS OF THE ALABAMA OYSTER COMMISSION; REPEAL OF AUTHORITY TO ISSUE BONDS. Any bonds heretofore issued by the Alabama Oyster Commission or by any corporation incorporated pursuant to the provisions of said Alabama Oyster Commission Act shall be obligations against any revenues validly pledged to the payment thereof. The Department of Conservation shall have all rights and powers of said Commission to fix and collect such rates, fees and charges as may be necessary or advisable in order to produce sufficient revenue to meet all expenses of maintenance and operation of its system or systems and to fulfill the terms of any agreement made with the holders of such bonds. The rights and remedies of the holders of such bonds, insofar as valid and enforceable, shall continue until such bonds are paid. After the effective date of this Act, however, no such bonds shall be issued, and the Department of Conservation shall have no power or authority to issue any bonds or to borrow any money.

Section 6. THE DIRECTOR OF CONSERVATION. The Department of Conservation shall be headed by and shall be under the direction, supervision and control of an officer, who shall be known and designated as the Director of Conservation. The Director of Conservation shall be the adviser of the Governor and the Legislature in matters relating to the wild life, forest, timber and other natural resources and the state parks and monument and historical sites of the State of Alabama and the discovery, development, protection and conservation thereof. He shall be responsible to the Governor for the administration of the Department of Conservation. The Director of Conservation shall be appointed and shall hold office at the pleasure of the Governor. Vacancies

for any reason shall be filled in the same manner as original appointments are made. Before entering upon the discharge of his duties, the Director of Conservation shall take the constitutional oath of office and shall give bond in such penalty as may be fixed by the Governor (but such penalty shall not be less than \$10,000) conditioned upon the faithful discharge of his duties. The premiums on such bond shall be paid out of the State Treasury. The annual salary of the Director of Conservation shall be fixed by the Governor but shall not, in any event, exceed \$6,000 per annum. Such salary shall be payable at the same time and in the same manner as salaries of other State officers. The Director of Conservation shall devote his full time to his official duties and shall hold no other lucrative position while serving as Director of Conservation.

Section 7. POWERS OF THE DIRECTOR OF CONSERVATION AND HOW EXERCISED; RESTRICTIONS THEREON. All functions and duties of the Department of Conservation shall be exercised by the Director of Conservation, acting by himself or by and through such administrative divisions or such officers or employees as he may designate. The Director of Conservation shall have all power and authority necessary or convenient to carry out the functions and duties of the Department of Conservation. In all cases in which the functions and duties of any other State department, board, bureau, commission, agency or office are herein transferred to or conferred upon the Department of Conservation, all power and authority heretofore conferred upon any officer or employee of such department, board, bureau, commission, agency or office in connection with such functions and duties are hereby transferred to and conferred upon the Director of Conservation. The Director of Conservation shall serve in every capacity with respect to such functions and duties as any such officer or employee. In the performance of such functions and duties and in the exercise of such powers and authorities, the Director of Conservation and all other officers and employees of the Department of Conservation shall, however, be subject to all legal restrictions, limitations, conditions and penalties, civil and criminal, with respect to the performance of such functions and duties, and the exercise of such powers and authorities. All reports and statements required to be made to any such State Department, board, bureau, commission, agency or office shall hereafter be made to the Department of Conservation.

Section 8. RULES AND REGULATIONS; PENALTIES FOR VIOLATION THEREOF. The Director of Conservation shall have and exercise all rule making powers of any department, board, bureau, commission, agency or office of the State, the functions and duties of which have been transferred to the Department of Conservation by this Act. The same penalties shall apply to any rules made by the Director of Conservation. All

rules and regulations heretofore made or promulgated by any such department, board, bureau, commission, agency or office shall, however, continue in effect until altered, amended or repealed by the Director of Conservation. The Director of Conservation shall have power and authority to establish and promulgate rules and regulations (including amendments and repeals thereof) with respect to the manner of performance of all functions and duties of the Department of Conservation, which rules and regulations shall be reasonably calculated to effect the expeditious and efficient performance of such functions and duties and shall not be in conflict with applicable statutes. The rule making power of the Director of Conservation shall not be delegated, except as otherwise expressly provided.

Section 9. **ADVISORY BOARD OF CONSERVATION CREATED.** There is hereby created the Advisory Board of Conservation for the Department of Conservation. The Board shall consist of the Governor, the Commissioner of Agriculture and Industries, the Director of the Agricultural Extension Service of the Alabama Polytechnic Institute ex-officio, and eight other members to be appointed by the Governor, one of whom he shall designate as Chairman of the Advisory Board of Conservation. The appointive members of said Board shall be selected with special reference to their training and experience along one or more of the principal lines of activity vested in the Department of Conservation. The term of office of each appointive member of the Board shall be six years. Of those first appointed, however, two members shall be appointed for two years, three members shall be appointed for four years, and three members shall be appointed for six years. The members of the Board shall receive no salary or compensation as members of such Board, but shall be reimbursed for actual expenses of travel, meals and lodging while in the performance of their duties as members of such Board. The Board shall hold semi-annual regular meetings on the second Tuesday in March and the second Tuesday in September. The Chairman of the Board or the Governor or the Director of Conservation shall have authority to call not more than two special meetings in any year. All meetings of the Board shall be held at the offices of the Department of Conservation. The Director of Conservation shall be ex-officio Secretary of the Board and shall keep minutes of all meetings and a record of all proceedings of the Board. He shall receive no additional compensation for such services.

Section 10. **FUNCTIONS AND DUTIES OF THE ADVISORY BOARD OF CONSERVATION.** The functions and duties of the Advisory Board of Conservation shall be as follows: (1) To assist in formulating the policies of the Department of Conservation in the performance of its functions and duties. (2) To examine all rules and regulations made or promulgated by any

department, board, bureau, commission, agency or office of the State abolished by this Act, and still in effect and all rules and regulations made or promulgated by the Director of Conservation, to recommend amendments or repeals thereof or additional rules or regulations and by a two-thirds vote of those present at any meeting and with the approval of the Governor, to amend or repeal such rules and regulations or to make and promulgate additional rules or regulations. (3) To advise with the Director of Conservation concerning any matter relating to the functions and duties of the Department of Conservation. (4) To assist in giving publicity to the wild life, timber, forest and other natural resources, the state parks and monuments and historical sites of the State and the work of the Department of Conservation in connection therewith.

Section 11. DIVISION OF GAME, FISH AND SEAFOODS; CHIEF OF THE DIVISION. There is hereby established in the Department of Conservation the Division of Game, Fish and Seafoods, which shall be headed by and be under the direction, supervision and control of an officer, who shall be designated the Chief of the Division of Game, Fish and Seafoods. He shall be appointed by the Director of Conservation, with the approval of the Governor. The Division of Game, Fish and Seafoods shall perform the functions and duties of the Department of Conservation with respect to the wild life of the State, including game, fish and seafoods.

Section 12. DIVISION OF FORESTRY; STATE FORESTER. There is hereby established in the Department of Conservation the Division of Forestry, which shall be headed by and be under the direction, supervision and control of an officer, who shall be designated the State Forester. The State Forester shall be a technically trained forester of recognized standing, and he shall be appointed by the Director of Conservation, with the approval of the Governor. The Division of Forestry shall perform all functions and duties of the Department of Conservation with respect to the timber and forest resources of the State.

Section 13. DIVISION OF STATE PARKS, MONUMENTS AND HISTORICAL SITES; CHIEF OF THE DIVISION. There is hereby established in the Department of Conservation the Division of State Parks, Monuments and Historical Sites, which shall be headed by and be under the direction, supervision and control of an officer, who shall be designated the Chief of the Division of State Parks, Monuments and Historical Sites. He shall be appointed by the Director of Conservation, with the approval of the Governor. This Division shall perform all functions and duties of the Department of Conservation with respect to State parks (other than forests) monuments and historical sites, including the marking, upkeep and publicizing of historical sites designated by the

Department of Archives and History.

Section 14. CREATION OF ADDITIONAL DIVISIONS IN THE DEPARTMENT OF CONSERVATION. With the approval of the Governor, the Director of Conservation may create and establish such additional division or divisions as may be determined to be necessary or convenient in the efficient and expeditious performance of the functions and duties of the Department of Conservation and assign functions and duties to such division or divisions, and he may transfer functions and duties from and to existing divisions from time to time. Chiefs of such divisions shall be appointed by the Director of Conservation, with the approval of the Governor.

Section 15. OATHS OF OFFICE AND SALARIES OF THE HEADS OF THE DIVISIONS OF DEPARTMENT OF CONSERVATION; BONDS OF CERTAIN OFFICERS AND EMPLOYEES. Before entering upon the discharge of their duties, the Chief of the Division of Game, Fish and Seafoods, the State Forester, the Chief of the Division of State Parks, Monuments and Historical Sites, and the Chief of any other Division hereafter established shall take the constitutional oath of office. The salaries of the Chief of the Division of Game, Fish and Seafoods, the State Forester, the Chief of the Division of State Parks, Monuments and Historical Sites, and the Chief of any other Division hereafter established shall be fixed by the Director of Conservation, with the approval of the Governor and shall be paid in the same manner and at the same time as the salaries of other State officers, but no one of such salaries shall exceed \$4500.00 per annum. Each such officer shall devote his full time to his official duties and shall hold no other lucrative position while serving as such. Each officer or employee of the Department of Conservation authorized or permitted to handle any money shall give bond in such penalty as may be fixed by the Director of Conservation, conditioned upon the faithful discharged of his duties.

Section 16. TRANSFER OF APPROPRIATIONS. All appropriations (including those from any special or ear-marked fund or funds) to any department, board, bureau, commission, agency or office of the State, the functions and duties of which are transferred to and conferred upon the Department of Conservation by this Act, are hereby transferred and assigned to the Department of Conservation to be expended by it in the performance of its functions and duties, but subject to the provisions of any law with respect to the budgeting, control and allotment of appropriations and expenditures.

Section 17. CONSOLIDATION OF FUNDS. The Game and Fish Fund, the Forestry Fund, the Oyster Protection Fund, any funds or moneys of the Alabama Oyster Commission or any corporation incorporated pursuant to said Alabama Oyster Commis-

sion Act (except such funds or moneys as may have been heretofore specifically pledged and set aside for the payment of bonds issued heretofore) and all other funds and moneys (whether special or earmarked or not) under the control or management of or used for or by any of the departments, boards, bureaus, commissions, agencies or offices of the State, the functions and duties of which have been transferred to and conferred upon the Department of Conservation by this Act, are hereby consolidated and combined into one fund, which shall be known as the Conservation Fund. All of such funds and moneys shall be transferred and delivered by the officers now having charge thereof to the State Treasurer forthwith. Each officer or employee charged with the duty of collecting any such funds or moneys shall remit all collections directly to the State Treasurer or deposit the same in a duly approved state depository to the credit of the Conservation Fund, as provided by law; and an additional duplicate deposit slip or receipt shall be furnished by the State Treasurer or such depository and forwarded to the Director of Conservation. All salaries and other expenses of the Department of Conservation shall be paid from the Conservation Fund but only in the same manner as the salaries and expenses of other departments of the State are paid, and all expenditures from the Conservation Fund shall be subject to the provisions of any law relating to the budgeting, control or allotment of appropriations and expenditures. Nothing in this Act, however, shall require or permit the diversion of license fees heretofore or hereafter to be paid by hunters or fishermen for any purpose other than the administration of the Division of Game and Fish and Seafoods, and such fees shall be used solely for the purpose of such administration. Nothing in this Act shall require the diversion of any funds from any particular purpose if the effect of such diversion would penalize the State in retaining or securing any Federal funds or Federal assistance. Any unexpended balance remaining in the Conservation Fund at the end of any fiscal year (except license fees paid by hunters or fishermen) shall be transferred to the General Fund.

Section 18. TRANSFER OF RECORDS, EQUIPMENT, ETC., TO THE DEPARTMENT OF CONSERVATION. All books, records, accounts, documents, papers, furniture, fixtures, supplies, material, equipment and other personal property and all lands, buildings, and other real property possessed or used by any department, board, bureau, commission, agency or office of the State, the functions and duties of which have been transferred to and conferred upon the Department of Conservation by this Act, are hereby transferred and assigned to the Department of Conservation and shall be delivered upon the request of the Director of Conservation.

Section 19. EMPLOYEES OF THE DEPARTMENT OF

CONSERVATION. The Director of Conservation shall, with the approval of the Governor, determine the number of employees needed for the efficient and economical performance of the functions and duties of the Department of Conservation and the salaries to be paid each such employee. All employees heretofore employed by any department, board, bureau, commission, agency or office of the State, the functions and duties of which have been transferred to and conferred upon the Department of Conservation by this Act, the right to appoint or nominate such employees and all appropriations for the payment of such employees, are hereby transferred and assigned to the Department of Conservation. The Director of Conservation shall, however, have the right to discharge any such employee, if, in his discretion, he shall conclude that the services of such employee are not needed or that the efficiency of the Department will be increased by the replacement of such employee. Employees determined to be needed and not transferred from some other department, board, bureau, commission, agency or office of the State and employees to replace any employees so transferred shall be appointed by the Director of Conservation.

Section 20. APPLICATION OF MERIT SYSTEM ACT. Any thing in this Act to the contrary notwithstanding, all employees and officers of the Department of Conservation (including the Chiefs of Divisions but not including the Director of Conservation) shall be subject to the provisions of any law with respect to the method of selection and classification of State employees.

Section 21. BEGINNING OF OPERATION OF DEPARTMENT OF CONSERVATION. The Department of Conservation shall begin the performance of the functions and duties transferred to and conferred upon it by this Act as soon as practicable after the effective date of this Act and after the appointment and qualification of the Director of Conservation, but each function or duty transferred to and conferred upon the Department of Conservation from some other department, board, bureau, commission, agency or office of the State shall continue to be performed as before the effective date of this Act until the Director of Conservation shall notify the officer or employee in charge of such department, board, bureau, commission, agency, or office that the Department of Conservation is ready to assume the functions and duties of such department, board, bureau, commission, agency or office or some designated part of such duties or functions, at which time the transfer shall be effective.

Section 21½. There is hereby appropriated out of any funds in the State Treasury, not otherwise appropriated, such amounts as may be necessary to carry out the provisions of this Act and to pay the salaries herein provided for and the expenses incurred hereunder.

Section 22. This Act shall not be construed to apply in any way to the Geological Survey of Alabama or any part or division thereof or any function which are now or may hereafter be by law conferred upon it, or any of its parts or division, but the said Survey, its parts and divisions shall be and are specifically exempted from all the provisions of this Act.

Section 23. SEVERABILITY. If any provision of this Act or the application thereof to any person, situation or circumstance shall be adjudged invalid, such adjudication shall not effect the remaining provisions nor the application of the provision with respect to which such adjudication was made to any other person, situation or circumstance.

Section 24. REPEAL OF CONFLICTING LAWS. All laws or parts thereof in conflict with this Act are hereby repealed to the extent of such conflict.

Section 25. This act shall take effect immediately upon its enactment into law.

Approved March 14, 1939.

No. 163)

(H. 88—Smyer

AN ACT

To amend Sections 8 and 9, of an Act entitled an Act "To provide for a more economical, convenient and uniform system of Assessing and Collecting taxes on real estate, including the enforcement of tax liens in all Counties having a population of 110,000 or more, according to the last, or any succeeding Federal Census, Approved April 21, 1936" so as to read as follows:

Be it Enacted by the Legislature of Alabama:

Section 1. That Sections 8 and 9, of an Act entitled "To provide for a more economical, convenient and uniform system of Assessing and Collecting taxes on real estate, including the enforcement of tax liens in all Counties having a population of 110,000 or more, according to the last, or any succeeding Federal Census, Approved April 21, 1936" so as to read as follows: Section 8. It shall be the duty of the Tax Collector, within the time allowed by law to furnish the Probate Judge a list of all property on which the entire amount of taxes have not been paid, which list shall show the name of the person to whom said property was assessed, and the Tax Collector shall certify the amount of taxes, fees and cost due on each parcel so listed and the parcel number as appears on the records of the Tax Assessor. On receiving said list the Judge of Probate shall as speedily as practicable give notice by publication one week, in a newspaper published in said County substantially in the following form: "The State of Alabama, (*Here give the*

County) County, "To whom it may concern: Take notice that the tax collector has filed in my office a list of delinquent taxpayers, and the real estate upon which taxes are due and therein reported that taxes on certain real estate assessed to the following named parties is delinquent—(*Here insert names of delinquent taxpayers*). This is to notify you to appear before the Probate Court of this County, at the next term thereof, commencing on Monday, the _____ day of _____ 19____, then and there to show cause; if any you have, why a decree of sale of said real estate should not be made for the payment of the taxes, fees and cost assessed upon each piece or parcel of land. (*Here Probate Judge Signature*), Judge of Probate. In answer to such notice, any person having an interest in or, claim to such real estate, may appear and defend against the proceedings seeking to condemn the same to sale for the payment of taxes assessed thereon. When practicable all real estate so assessed for any one year must be incorporated in one notice. Section 9. Such cause shall be triable at the term named in said notice, and unless the cause is contested at the trial term the Probate Judge shall forthwith issue his decree for the sale of lands. It shall be the duty of the Tax Collector to attend the several terms of the Probate Court at which any of such causes are triable, and to have with him his list, and such tax list shall, in all cases, be accepted as prima facia evidence of the amount of taxes and fees due, and that the same have been properly assessed and charged, and are unpaid. Upon a trial of said cause if no defense is interposed or if interposed and on trial thereof is not sustained by the evidence adducated, the Probate Judge shall make and enter a decree of sale substantially in the following form: "It appearing to the court that the taxes have been assessed against the real estate mentioned in this cause in the amount set opposite each piece or parcel of real estate described herein, and that the same is still due and unpaid and it further appearing that notice of this proceedings have been given as required by law and no valid defense has been interposed against the sale of such real estate for the payment of the taxes. It is therefore ordered, adjudged and decreed by the Court that the State of Alabama, _____ County, and any municipality in which said property is located, has a lien for the payment of the amount of taxes set opposite each piece or parcel of real estate together with interest at the rate of six per cent on said sum from_____. (*The date said taxes became delinquent*), and for the additional sum of fees, charges and cost in this cause in the amount set opposite each piece or parcel of real estate in a column marked "fees and cost" on the following described real estate (*Here give list of real estate and against whom assessed*). It is further ordered, adjudged and decreed that said real estate be sold for the payment of said delinquent taxes, and of said fees, charges and cost, and expense of such sale." Such decree when entered shall be signed by the Judge of Probate and shall have, when the jurisdiction of the court is shown

the effect of judgment in other cases in courts of record and shall have the same force and effect had said judgment been entered against each piece or parcel of real estate described therein. Any person having any interest in any piece or parcel of property ordered to be sold shall have the right to appeal from said judgment in the manner now provided for by law in appealing from a decree ordering a sale of property for taxes, on any piece of property so ordered to be sold. Immediately at the end of any term of court at which any decree for sale of real estate for the payment of taxes are rendered, or as soon thereafter as practicable, the tax collector shall proceed to enforce such decree by sale of the real estate ordered to be sold, and to this end shall give notice for thirty days before the day of sale by publication for three consecutive weeks in some newspaper published in the county, that at the time specified therein he will proceed to sell such real estate separately, describing such portions as are embodied in said decree and stating the amount for which each parcel of real estate is to be sold and against whom assessed and the amount of taxes, fees, charges and cost against each piece or parcel of property. For notice to each delinquent property owner to show cause why a decree of sale should not be rendered against the property assessed to him, the Probate Judge is entitled to a fee of twenty-five cents, and the Tax Collector shall be entitled to a fee of twenty-five cents for making sale against each person whose property was sold for taxes, and the Judge of Probate shall be entitled to a fee of twenty-five cents for confirming and making a report of said sale, but no other fee shall be charged by the Tax Collector or Probate Judge. Said fees shall in the discretion of the Tax Collector be charged against the highest assessed piece or parcel of the taxpayer or against his home-place. The Probate Judge shall confirm and make a report of said sale to the State as now required by law except that he shall not be required to report the amount of State, County, municipal or special district school taxes due on each parcel of land provided he furnishes the parcel numbers which parcel number shall clearly indicate in which district or municipality each piece or parcel of land is located, and its rate of taxation. All other provisions of any laws in regard to the sale of real estate for ad valorem taxes not inconsistent herewith shall be applicable to the sale of property in counties governed by this act.

Section 10. All laws and parts of laws, general, local or special, in conflict herewith are hereby repealed except the same shall not repeal House Bill 208 Acts of 1936-1937 page 34 approved Feb. 2nd, 1937.

Section 11. This act shall take effect upon its approval by the Governor.

Approved March 20, 1939.

AN ACT

To provide for a finding by the Legislature that the production of milk and proper control of its marketing is in the public interest and is necessary for adequate and proper supply of a wholesome food throughout all seasons of the year in the interest of general health and well-being of the public generally; to create a State Milk Control Board; to provide for the appointment and removal of its members; to define its powers and duties; to fix the compensation of its members; to empower the State Milk Control Board with authority to employ necessary help to fix their compensation; to make and enforce necessary rules and regulations for the enforcement of said law; to cooperate with other governmental agencies tending to bring about a uniform system of milk control regulations; to provide for the creation and dissolution of milk sheds, or their diminution or enlargement from time to time; to provide for a review of any order or ruling of the Board; to provide for the fixation, regulation and collection of license fees for milk dealers, distributors, producer-distributors, producers and stores; to regulate and fix minimum or maximum prices; to provide for the issuance of licenses; to aid in the prosecution of any violation of statutory laws that are in existence or that may be amended or enacted for the preservation of the property of those engaged in the dairy industry or the marketing of dairy products; to enforce the rules, findings and decrees of the State Milk Control Board, defining certain terms and commodities such as: Milk Control Board, person, milk dealer, distributor, producer, milk shed, processor, milk, fluid milk, consumer, store, producer-distributor, wholesale producer, licensee; providing for the repeal of all laws in conflict with this Act and establish the manner of the taking effect of this Act.

Be it Enacted by the Legislature of Alabama:

Section 1. That it is hereby declared that milk is a necessary article of food for human consumption: that the production and maintenance of an adequate supply of healthful milk of proper chemical and physical content, free from contamination, is vital to the public health and welfare, and that the production, transportation, processing, storage, distribution and sale of milk, in the State of Alabama, is an industry affecting the public health and interest; that unfair, unjust, destructive and demoralizing trade practices have been and are now being carried on in the production, marketing, sale, processing and the distribution of milk, which constitute a constant menace to the health and welfare of the inhabitants of this State and tends to undermine sanitary regulations and standards of content and purity, that health regulations alone are insufficient to safeguard the consuming public from future inadequacy of a supply of this necessary commodity; that it is the policy of this State to promote, foster and encourage the intelligent production and orderly marketing of commodities necessary to its citizens, including milk, and to stabilize marketing of such commodities; that fluid milk is a perishable commodity easily contaminated with harmful bacteria, which cannot be stored for any great length of time, and which must be produced and distributed fresh daily,

which supply cannot be regulated from day to day, but, due to natural and seasonal conditions fluctuates from day to day; that this surplus of milk, though necessary and unavoidable, unless regulated tends to undermine and destroy the fluid milk industry; that investigation and experience has shown that, due to the nature of milk and the conditions surrounding its production and marketing, that unless the producers, distributors and others engaged in the marketing of milk are guaranteed and insured a reasonable profit on milk, that both the supply and quality of milk are affected thereby to the detriment of and against the best interest of the citizens of this State whose health and well being are vitally affected thereby; that where no supervision and regulation is provided for the orderly marketing of milk, past experience has shown that in flush seasons of production, when surplus of milk is great and the price which producers and others are able to obtain for milk is below the cost of production, that oftentimes milk strikes invade the market followed by bombings and bloodshed, which oftentimes prevents the consuming public from receiving and adequate supply of pure and wholesome milk necessary for its health and well being; that, due to the nature of milk and the conditions surrounding its production and marketing that the natural law of supply and demand has been found inadequate to protect the industry in this and other states of the United States, and that, in the public interest, it is necessary to provide state supervision and regulations of the fluid milk industry of this state. The foregoing statement of facts, policy and application of this law are hereby declared a matter of legislative determination.

Section 2. DEFINITIONS. As used in this Act, unless otherwise expressly stated or unless the context or subject matter otherwise requires: "Milk Control Board" means a state agency created by this Act, to be known and designated as the "Alabama State Milk Control Board," which said Milk Control Board shall have all the powers and duties hereinafter set out. "Person" means any person, firm or corporation, association or partnership. "Milk Dealer" means any person who purchases, buys, sells, handles or produces milk in any way except for consumption where said milk is not to be resold or otherwise distributed. Each person, corporation, partnership or association, which, if a natural person, shall be a milk dealer within the meaning of this Act, and any subsidiary or affiliate of such corporation similarly engaged shall be deemed a milk dealer within the meaning of this definition. A hotel, lunchstand or restaurant which sells milk intended for consumption only upon the premises where sold; or a wholesale producer who sells his entire production to distributors; or a person who buys milk for processing purposes only and who does not sell or distribute any milk for fluid milk consumption shall not be deemed a milk dealer. "Distributor" means a person who purchases, accepts or

receives milk for the purpose of putting such milk in bottles or other unit containers in which same is designed to be sold or for the purpose of cooling, pasteurizing, standardizing or otherwise processing such milk for fluid milk consumption or who buys milk from another producer, producer-distributor or distributor for the purpose of selling, jobbing or distributing such milk at wholesale or retail for any one or more such purposes. Said term, however, excludes all persons hereinafter defined as producer-distributors. "Producer" means a person who produces milk, any part or all of which is sold to another by whatever means or device for use, resale, or for fluid milk consumption. "Milk Shed" means any city, town or village and surrounding territory, or any two or more cities, towns or villages and surrounding territory, which the Milk Control Board may ascertain to constitute a natural marketing area and may designate as a Milk Shed. "Processor" means a person who buys milk only for the purpose or purposes of processing such milk into by-products of milk, but does not sell or distribute any of such milk for fluid milk consumption. Any person who buys milk, a part of which is processed into by-products and a part of which is sold or distributed for fluid milk consumption shall not be deemed a processor. "Milk" means the lacteal secretion of a dairy animal or animals, which includes such secretions when cooled, pasteurized, standardized, or otherwise processed for the purpose of sale as milk, cream, butter milk, skimmed milk, and flavored milk drinks. "Fluid Milk" means milk as defined above, including cream, butter milk, skimmed milk and flavored milk drinks when sold or offered for sale by whatever device, means or method as fluid milk, but excludes milk sold in condensed or powdered form or concentrated milk contained in hermetically sealed cans. "Consumer" means any person who purchases milk solely for personal use or the use of his household. "Store" means any establishment where milk is sold directly to the consumer other than for consumption upon the premises where sold. "Producer-Distributor" means a producer who distributes milk by whatever device, means or method which he produces, to milk dealers, stores, hotels, cafes, hospitals, restaurants, wholesale dealers, other producer-distributors, consumers, or consumers agents. "Wholesale Producer" means a producer who sells milk, which he produces, in bulk to distributors for resale as fluid milk. "Licensee" means any person who holds a license from the Milk Control Board, whether such person be a producer, producer-distributor, distributor, wholesale producer, store or milk dealer.

Section 3. MILK CONTROL BOARD. There is hereby created a Milk Control Board to be known as "Alabama State Milk Control Board," to consist of five members. The members of the Milk Control Boards shall be appointed by the Governor of Alabama, with the following qualifications: One person, who is a "Whole-

sale Producer," One person, who is a "Producer-Distributor," One person, who is a "Distributor," one person, who is a "Consumer," and who is not otherwise engaged in the milk business. One person as a member at large, which said person must not be engaged in the production, distribution, or sale of milk in any manner. All such members shall serve at the pleasure of the Governor of Alabama, and all or anyone of such members shall be subject to be removed at any time at the will of the Governor. Any and all vacancies, whether arising from expiration of term, voluntary or involuntary retirement or death, shall be filled in the same manner as provided for each original respective appointment. The Commissioner of Agriculture and Industries shall be an ex-officio member of the Board; he may designate any member of the Department of Agriculture and Industries to represent him at its meetings. The compensation of the members of the Alabama State Milk Control Board shall be fixed at Seven and 50/100 (\$7.50) Dollars per day for each day actually engaged in the official functions of the Alabama State Milk Control Board, plus subsistence and necessary traveling expenses at the rate allowed other state employees. The Board members serving under the Milk Control law in force immediately prior to the taking effect of this Act shall have authority to serve until their successors are appointed as provided by this Act.

Section 4. EMPLOYEES OF THE MILK CONTROL BOARD: The Milk Control Board may employ such employees, assistants and legal representative and counsel as it may deem necessary to carry out the provisions of this Act, and may authorize and fix their respective salaries, wages or compensation, and such employees shall be paid subsistence and necessary traveling expenses at the rate allowed other State employees. All such employees, assistants and legal representatives and counsel shall serve at the will of the Milk Control Board and may be removed by it at any time, but all expenditures made under authority of this Act shall and must be paid from the receipts hereinafter provided for. The Milk Control Board shall have authority to call upon the Attorney General of the State of Alabama for any legal opinion, the same as other state agencies, and it shall be the duty of any solicitor or County Attorney of the State of Alabama, when requested by the Milk Control Board to do so, to investigate, institute and prosecute any violation of the Milk Control Law or any lawful order, rule or regulation of the Milk Control Board. However, the Milk Control Board may have its own attorney or legal counsel to institute for it and in its name any civil action which the Milk Control Board may deem it necessary or advisable to institute to enforce any provision of this Act or any lawful order, rule or regulation of the Milk Control Board. The Milk Control Board shall have the authority to designate its own attorney to assist the solicitor or County Attorney as Special Prosecutor in any criminal

prosecution brought for any violation of this Act or any lawful order, rule or regulation of the State Milk Control Board or to defend the Milk Control Board in any action wherein its interests are involved.

Section 5. DECLARATION OF MARKETING AREAS: As soon as possible after its creation, the Board shall designate natural marketing areas which shall constitute the respective milk sheds of the State of Alabama, but the Board shall have the power at any time to designate new or additional milk sheds or change the area of any designated milk shed or combine any two or more designated milk sheds when it may deem such action necessary or advisable to carry out the provisions of this Act. At any time after the Board shall have designated a marketing area as a milk shed, a majority of the Producers, producer-distributors and distributors, all groups counted as one group, selling or marketing milk in such milk shed, who operate under a permit from the State Board of Health or any County Board of Health of the State of Alabama, may petition the Board by written petition signed by a majority of such producers, producer-distributors and distributors, all counted as one group, for the benefits and provisions of this Act. No objection shall be made as to the form of the petition. Immediately upon such petition being filed with the Board, all the provisions of this Act shall apply in such milk shed. Provided that any change in the area of any designated milk shed may be made by the Board upon a majority of all the producers, producer-distributors and distributors, selling or marketing milk in such milk shed, all groups counted as one group, petitioning the Board by written petition signed by a majority of producers, producer-distributors, and distributors, all counted as one group, favoring such change of milk shed areas. No objection shall be made as to form of the petition. Provided further, that the Milk Control Board, upon petition signed by a majority of all the producers, producer-distributors, and distributors, duly licensed by the Board, selling or marketing milk marketed and sold in any designated milk shed, all such groups counted as one group, shall have the power to discontinue the benefits and provisions of this Act in any designated milk shed, and to release the producers, producer-distributors and distributors, and others engaged in the milk industry in such milk sheds so discontinued from the provisions of this Act, when, in the opinion of the Milk Control Board, the provisions and regulations of this Act are unnecessary to maintain an adequate supply of pure and wholesome milk to the consuming public of such Milk Shed, or to prevent demoralizing and destructive trade practices or conditions which threaten to impair or destroy an adequate supply of pure and wholesome milk to the Citizens consuming milk in such Milk Shed. But no provisions of this Act shall apply in any part of the State of Alabama unless and until applied for by such pro-

ducers, producer-distributors, and distributors as herein provided for.

Section 6. GENERAL POWERS OF THE MILK CONTROL BOARD. The Milk Control Board is hereby vested with the powers, and it shall be its duty to supervise and regulate the fluid milk industry of the State of Alabama, including the production, production-distribution, transportation, manufacturing, storage, distribution, delivery, processing, and sale of milk in the State of Alabama, and to investigate and ascertain the use to which the distributor or processor makes of all fluid milk purchased and to require the distributor or processor to pay for the said milk at the proper price, and to enforce all provisions of this Act, providing, however, that nothing contained in this Act shall be construed to abrogate or affect the status, force or operation of any provision of Public Health Laws or County Board of Health regulations, or municipal ordinances. The Milk Control Board shall have the power to cooperate with the State Board of Health or any County Board of Health or State Department of Agriculture and Industries in enforcing the provisions of this Act, and to investigate all matters pertaining to the production, manufacture, production-distribution, processing, storage, transportation and sale of milk and milk products in the State of Alabama. The Milk Control Board shall have the power to subpoena milk dealers and producers, their records, books and accounts and any other person from whom information may be desired or deemed necessary to carry out the purposes and intent of this Act, and may also issue commissions to take depositions of witnesses who are sick or absent from the State. It shall be the duty of any Sheriff of any County of the State of Alabama, when requested to do so by the Milk Control Board or any duly authorized agent or employee of said Board to execute any summons, citation or notice which the Milk Control Board may cause to be issued, for which such sheriff shall be authorized to charge the same fee against the funds provided for the Milk Control Board as he might charge for the service of such a document if issued from the Circuit Courts of the State of Alabama. Any person other than licensee who holds a license under the Milk Control Board who is cited to show cause why his license should not be revoked, shall receive for his attendance before the Milk Control Board or its duly designated employee the same compensation as provided for a witness subpoenaed to appear before the Circuit Court, which shall be charged against the funds provided for the operation of the Milk Control Board. Any duly designated employee of the Milk Control Board may administer oath to witnesses and may conduct hearings or investigations and any such duly designated employee of the Milk Control Board may sign and issue subpoenas requiring witnesses to appear before him or the Milk Control Board, and in addition to the manner

provided above for the execution of subpoenas, summons and citations issued by the Milk Control Board to witnesses or licensees, the Milk Control Board, through its designated officers shall have the power to serve said subpoenas, summons or citations upon any such person by sending a copy of such summons, subpoena or citation through the United States mail, postage prepaid, which said mail shall be registered with return receipt attached and such service shall be complete when said registered mail shall be delivered to said person and such receipt returned to the Milk Control Board or its designated employee, signed by the person sought to be summoned, subpoenaed or cited. Obedience to a subpoena, summons or citation issued by the Milk Control Board or any person authorized and designated by the Milk Control Board to issue said subpoena may be enforced by application to any Judge of the Circuit Court of the County in which said subpoena was issued or to the Judge of any Circuit Court of the County in which such person subpoenaed or cited resides in the same manner as is provided by law for the grand jury of a County to enforce its subpoenas or summons and with the same penalty as provided therefor for the failure of any person failing or refusing to comply with such summons or subpoena. It shall be the duty of the Milk Control Board, upon application of any person holding a license under the Milk Control Board to act as mediator and arbitrator in any controversy or issue that may arise among or between a licensee and another licensee as between themselves or that may arise between them as groups when said controversy or issue pertains to fluid milk, and the findings and decisions of the Milk Control Board in all such matters shall be conclusively binding on all such licensees therein and subject only to review by appeal as herein-after provided for in this act. The operation and affect of any provision of this Act, conferring a general power upon the Milk Control Board, shall not impair or limit any specific power or powers granted to the Milk Control Board by this Act.

Section 7. RULES AND ORDERS. The Board may adopt and enforce all rules and all orders necessary to carry out the provisions of this Act. Every rule or order shall be posted for public inspection in the main office of the State Milk Control Board for thirty (30) days, and a copy filed in the office of the Board, excepting an order directed only to a person or persons named therein which shall be served by personal delivery of a copy, or by mailing a copy in a sealed envelope with postage prepaid, properly addressed to each person to whom such order is directed, or, in the case of a corporation, to any officer or agent of the corporation upon which a summons may be served in accordance with the provisions of the statutes of Alabama. The posting in the main office of the State Milk Control Board of any rules and of any order not required to be served and such filing in the office of the Board

shall constitute due and sufficient notice to all persons affected by such rule or order. A rule when duly posted and filed, as provided in this Act, shall have the force and effect of law.

Section 8. ENTRY, INSPECTION AND INVESTIGATION. The Board or any person designated for that purpose by the Board, shall have access to, and may enter, at all reasonable hours, all places where milk is produced, stored, bottled, processed, or manufactured, or where milk or milk products are being produced, bought, sold or handled, or where the books, papers, records or documents relative to such transactions are kept and shall have the power to inspect and copy the same in any place within the State, and may administer oath and take testimony for the purpose general public issue. Any member or employee of the Board and necessary to administer this Act, but any such information so derived shall be treated as confidential by the Board, and shall be used by it only for the administration of this Act and not for the general public issues. Any member or employee of the Board and any person assisting the Board in the administration of this Act, who shall divulge any information secured while in the employ of the Board, in respect to the transaction, property, files, records or papers of the Board, or in respect to the business; finances or mechanical, chemical or other industrial processes of any person, to any person other than members of the Board or the superior of any such employee of the Board, except when called upon to testify in any action or proceeding in any court, wherein the Board is a party, shall be fined not less than One Hundred Dollars (\$100.00) nor more than One Thousand Dollars (\$1000.00).

Section 9. LICENSES TO PRODUCERS, PRODUCER-DISTRIBUTORS, MILK DEALERS, STORES and DISTRIBUTORS. In any Milk Shed where the provisions of this Act once applies, it shall be unlawful for any producer, producer-distributor, store, milk dealer, or distributor to produce, sell, buy, handle, or distribute milk unless such person be duly licensed as provided by this Act. It shall be unlawful for any such person to buy, sell, handle, or distribute milk which he knows or has reason to believe has been previously dealt with or handled in violation of any provision of this Act.

Section 10. APPLICATION FOR LICENSE. An applicant for license to operate as milk dealer, producer, producer-distributor, store or distributor shall file an application upon a blank prepared under authority of the Board. An applicant shall state such facts concerning his circumstances and the nature of the business to be conducted as in the opinion of the Board are necessary for the administration of this Act. Such application shall be accompanied by the license fee required to be paid. The Board may classify licenses and may issue licenses to milk dealers to carry on a certain designated kind of business only, or the same may be limited

to a particular city or village or to a particular market or markets in the State, and may specify the place or places where milk may be received from producers by and with the consent of a majority of such producers. Each application for a license shall be in writing, under oath, and in all cases where a health permit is required of an applicant to carry on his particular kind of business by the State or County Board of Health, a certificate from such State or County Board of Health in the milk shed where he desires to do business that he is complying with the health regulations of such milk shed, must accompany the application. Where there are no health regulations in force in said milk shed by the County Board of Health, or where it does not apply, no certificate shall be necessary. Application shall be duly made within thirty days after this Act takes effect in any milk shed by all milk dealers and producers then engaged in business in such milk shed. For the year 1939 the license year shall commence on the 1st day of January, 1939, and shall end on the 31st day of December following. For the year 1940, the license year shall commence on January 1, 1940 and shall end on the 30th day of September, 1940, provided however that all licensees shall pay for the year 1940 a license fee equal to three-fourths of their annual license fee required of such licensees. The license year for 1941 shall begin October 1, 1940 and shall expire September 30, 1941, and for each year thereafter the license years shall begin on October 1 and expire on September 30 of each respective year the same as provided for the year 1941. For the year 1939, the license year shall be deemed to have begun January 1, 1939, but any licensee who shall have paid a license fee or any part thereof to the Milk Control Board operating under any Act of the Legislature heretofore existing for the year 1939, shall be allowed credit on his 1939 licenses of any amount paid to such State Milk Control Board under such Act for the year 1939. In newly created milk sheds or in milk sheds where the territory has been extended, the license year shall commence as hereinabove stated except that persons newly affected thereby who are required to have license shall pay a license fee which shall be reduced 25% for each fully elapsed quarter of the license year prior to the issuance of said license, provided, however, that no license fee for any period shall be less than 25% of the total. All persons commencing new business who were not in business at the beginning of the license year shall pay a license fee in the same amount and in the same manner as provided for new or extended milk sheds.

Section 11. LICENSE FEES. All persons required by this Act to be licensed shall pay a yearly license fee computed upon the following rates: Stores . . Two and One Half Dollars (\$2.50) each per year. Any person operating two or more stores shall obtain a license for each store and pay a license fee of Two and

One Half Dollars (\$2.50) per year on each store. Producers . . An amount equal to fifty cents for each cow in his dairy herd or herds, dry or milking, over two years old, provided that each person, firm or corporation who owns or operates two (2) cows or less shall be exempt from the payment of a license fee as a producer. For the purpose of determining the total amount of such producers fee, the Board shall calculate same upon the largest number of cows in each producers herd or herds at any time during the license year, and in the event any producer acquires or uses additional cows, bringing his dairy herd or herds in excess of such largest number during the license year, he shall pay an additional fee of fifty cents for each additional cow. Producer-distributor . . Where a producer-distributor buys milk in addition to that produced by him, he shall pay a license fee as a producer on the amount he produces and as a distributor on the amount he buys, provided, however, that, in the event he purchases milk only a part of the year, he shall pay a distributors license only on the quarters of a year in which he purchases milk, each quarter or part thereof to be at the rate of one quarter year license, as a distributor. Distributor . . . Distributors who handle less than fifty gallons per day . . a license fee of Ten (\$10.00) Dollars per year. Distributors who handle more than fifty gallons per day, but less than one hundred gallons per day . . a license fee of Twenty-five (\$25.00) Dollars. Distributors who handle more than one hundred gallons per day, but less than five hundred gallons per day . . a license fee of Sixty-two Dollars and Fifty cents (\$62.50). Distributors who handle more than five hundred gallons, but less than one thousand gallons per day . . a license fee of One Hundred Twenty-five (\$125.00) Dollars. Distributors who handle more than one thousand but less than three thousand gallons per day . . a license fee of Three Hundred (\$300.00) Dollars per year. Distributors who handle more than three thousand gallons per day a license fee of Four Hundred (\$400.00) dollars per year. The Board may in its discretion reduce, but not increase, any of the above rates. This Act shall not apply to a person who produces milk for his own use or for the use of his own household and who does not sell any milk produced by him, provided further that the exemption from the payment of a license herein provided for of a person owning or operating two (2) cows or less shall not exempt said person from complying with the provisions of this Act or the orders of the Milk Control Board, regulating the price of milk in a milk shed where said person sells any of the milk produced by him from such cows.

Section 12. REPORTS AND BONDS OF MILK DEALERS. The Milk Control Board shall have the power to require all persons holding licenses under it to file with the Milk Control Board such reports at such reasonable or regular time as the Milk Control Board may require, showing such person's production, sale or dis-

tribution of milk, and any information deemed by the Milk Control Board necessary which pertains to the production, use, sale or distribution of such milk, either under oath or otherwise, as the Milk Control Board may direct, and failure or refusal to file such reports when directed to do so by the Milk Control Board or its duly designated employees shall constitute grounds for the revocation of such person's license and shall constitute a violation for which such person may be fined as hereinafter provided, one or both, at the discretion of the Milk Control Board. In the event that any milk dealer, distributor or processor shall fail or refuse to pay for milk purchased from a producer, producer-distributor, distributor or other milk dealer within the time contracted for the payment of such milk or within the regular period for which milk is customarily bought and paid for, or pay for such milk at the price fixed by the Board for such milk, without just cause, the Milk Control Board shall have the power to require such person to post a bond with the Milk Control Board and payable to the Milk Control Board with such security as may be approved by the Milk Control Board in a sum equal to twice the amount of the total purchases of milk of such licensee for the past fifteen (15) days, and in addition, such failure or refusal of such person shall constitute grounds for the revocation by the Milk Control Board of his license or for a fine as hereinafter provided, one or both at the discretion of the Milk Control Board. Any person required by the Milk Control Board under this Section to post a bond may, in the event of the refusal by the Board to approve such security as such person offers, post with the Milk Control Board, in lieu of such bond, cash in the amount as herein provided, or bonds of the United States of America or bonds of the State of Alabama. Any person required to post a bond may be released by the Milk Control Board from such requirement at any time when the Milk Control Board may deem it no longer necessary.

Section 13. GRANTING AND REVOKING LICENSES. At any time that an application is made for a license as provided by this Act, the Milk Control Board may if it deems it advisable or necessary, conduct an investigation before granting said license to determine if such applicant is entitled to the license for which he is applying. The Milk Control Board may decline to grant such a license upon any of the following grounds: Where it ascertains that such person so applying has prior thereto held a license from the Milk Control Board of Alabama under this or any other prior act of the Legislature and where said license has been revoked by said Milk Control Board or any prior Milk Control Board for a violation of any provision of this or any other prior act of the Legislature or any lawful order, rule or regulation of the Milk Control Board operating thereunder, but the Milk Control Board shall have the discretion to grant said license if, in its

opinion, such applicant is then willing, able and intends to comply with all provisions of this Act and all lawful orders, rules and regulations of the Milk Control Board, or the Milk Control Board may refuse to grant or renew a license where, after an investigation, it determines that said person so applying for a license is insolvent or owes for milk purchased in a former course of dealings which he fails or refuses to pay. The Milk Control Board may suspend or revoke a license already granted upon due notice and opportunity of hearing to the licensee when the Milk Control Board, after a hearing, has become convinced (a) That a milk dealer or distributor has rejected without reasonable cause any milk purchased, or has rejected without reasonable cause or reasonable advance notice milk delivered in ordinary continuance of a previous course of dealings. (b) Or where the Milk Dealer, distributor or producer-distributor has failed to account and make payment without reasonable cause for milk purchased by him. (c) Or where the milk dealer, distributor, producer-distributor or producer has committed any act injurious to the public health or calculated to defraud the public either in the production or marketing of milk or where said person has continued in a course of dealing in violation of this Act or of any lawful order, rule or regulation of the Milk Control Board intended by such person to defeat the purposes of this Act. (d) Or where a milk dealer, distributor or producer-distributor has continued in a course of dealings of such a nature as to satisfy the Milk Control Board of his inability or unwillingness to comply with the provisions of this Act or the lawful order, rules or regulations of the Milk Control Board, or where the milk dealer, distributor, producer-distributor or producer has been a party to a combination to fix prices contrary to this Act or the lawful orders, rules and regulations of the Milk Control Board. A cooperative marketing Association of dairymen organized under or operated pursuant to the provisions of Article 20 or 21 of the Code of Alabama, or amendments thereto, for cooperative marketing associations and engaged in the collective sales of marketing of its members or shareholders shall not be deemed to be construed to be a conspiracy or combination in restraint of trade or an illegal monopoly, nor shall the contracts, agreements, arrangements or combinations heretofore or hereafter made by such association or members, officers or directors thereof, in making such collective sales and marketing and prescribing the terms and conditions thereof be deemed or construed to be conspiracies or to be injurious to public welfare, trade or commerce, if otherwise authorized by such chapter or law, unless such association or its members, officers or directors violate any provision of this Act or any lawful rule, regulation or order of the Milk Control Board. (e) Or where milk dealers, distributors, producers-distributors and producers fail to keep such records as required by the Milk Control Board, or

where they, or either of them, fail or refuse to furnish statements, reports or information required of them by the Milk Control Board. (f) Or where it is shown that any statement upon which the license was issued is or was false or misleading on any matter which would be grounds for the refusal of the Milk control Board to issue a license. (g) Or where the licensee has violated any provision of this Act. (h) Or where the licensee has violated any lawful order, rule or regulation of the Milk Control Board. (i) Or where the licensee has been required to give a bond or an additional bond and has failed to do so. (j) Or where the required health permit in cases where health permits are required has been suspended or revoked by the Board of Health having jurisdiction thereof. (k) Or where licensee has failed to pay his license fee within the time allowed by law or within the time extended to him by the Milk Control Board for the payment of such fee. Any person who fails to pay his license fees when due or within the time, if any, extended by the Milk Control Board, for the payment of such license fee, shall automatically owe a penalty of 10% of said yearly license fee. In the event of a license being revoked for failure to pay a license fee as required by this Act, the license shall only be reinstated upon payment of all of the fee due thereon, plus a penalty of 10% of the yearly license fee. The Milk Control Board may grant or renew a license or may permit a licensee to retain his license conditioned upon the agreement of the applicant or licensee to do the things required by this Act of him to do, or of any lawful order, rule or regulation of the Board, or conditioned upon his agreeing to omit, cease or desist from doing anything which he has been doing in violation of the provisions of this Act or any lawful order, rule or regulation of the Milk Control Board. The Milk Control Board shall have the further power, in the event of such agreement and the subsequent failure of such licensee to comply with such agreement, to revoke such person's license the same as it might have done when said Act of omission or commission was originally omitted or committed. (l) Or where a licensee solicits or attempts by any manner or method to induce or coerce another licensee to sell such licensee milk at less than the lawful minimum price or prices established by the Milk Control Board for the sale of such milk. In such event, the Milk Control Board may, after becoming convinced that any such licensee has committed such acts as set out in this sub-section, order any and all licensees to discontinue and to cease supplying such licensee with milk for such time as the Milk Control Board may find necessary to prevent such illegal practice. (m) Or where a licensee, who is affiliated or owned by a foreign corporation, purchases milk from a licensee who is a domestic corporation or who sells milk in intrastate business, but who keeps the books and records of such transactions in another state, refuses or fails, after notice, to furnish the Milk Control

Board true and verified records of all such transactions as the Milk Control Board may deem necessary or advisable to carry out the purposes and provisions of this Act. In the event of a violation of any provisions of this Act or any lawful order, rule or regulation of the Milk Control Board, which is made grounds of a revocation of a license in this section, the Milk Control Board may, in its discretion, in lieu of revoking said person's license, assess a fine against such licensee for such violation not to exceed the sum of \$500 for each separate offense. Each days violation of any such provisions of order, rule or regulation shall constitute a separate offense. All fines assessed by the Milk Control Board against a licensee shall be paid over to the Milk Control Board or its financial officer, and shall in turn be audited into the treasury, the same as license fees levied under this Act and any sum of money so derived from such fines shall be placed in the funds of the Milk Control Board and used by it for the administration of this Act, the same as provided for license fees levied under this Act. Failure of a licensee to pay a fine assessed by the Milk Control Board against him for a violation, as set out in this section, within the time allowed by the Milk Control Board for the payment of such fine, which in no event shall exceed 90 days, shall unless appealed from, as hereinafter provided, constitute an automatic revocation of such licensee's license.

Section 14. RECORDS. In addition to the records which the Milk Control Board is heretofore authorized to require of licensee, the Milk Control Board may require licensee to keep the following records: (a) Record of all milk produced, the number of cows from which said milk is produced, and the source or location of the production of such milk. (b) A record of all milk received or purchased detailed as to source and as to names and addresses of suppliers with a record of the butterfat test, price paid, deductions or charges made. (c) A record of all milk sold classified as to grade or usage, location and market outlet, and size and style of container, with prices and amount received therefor. (d) A record of the quantity of each milk product manufactured and quantity of milk or cream used in the manufacture of each product. Also the quantity and value of milk products sold. (e) A record of wastage or loss of milk or butterfat. (f) A record of items of operating or handling expenses and profit or loss represented by the difference between the price paid and the price received for all milk. (g) Such other records and information pertaining to milk as the Milk Control Board may deem necessary for the proper enforcement of this Act.

Section 15. REPORTS. Each licensee shall from time to time, as required by rule or order of the Board, or by special order of its authorized employees, make and file a verified report on forms prescribed by the Milk Control Board of all matters on ac-

count of which a record is required to be kept together with such other information or facts as may be pertinent and material within the scope of the purposes and intent of this Act. Such reports shall cover such period of time or times as specified in the order of the Milk Control Board or its duly designated employees.

Section 16. EXECUTIVE SECRETARY AND FINANCIAL OFFICER. The Milk Control Board shall have the power, and it shall be its duty to designate an Executive Secretary who shall have charge of the administration of the Milk Control Board's orders, rules and regulations, and who shall also serve as financial officer of the Board, and who shall be authorized to accept or receive money paid or to be paid to the Milk Control Board, either as license fees or fines as provided by this Act. Such person shall, before he enters upon the discharge of his duties, execute and file a bond in such amount as may be fixed by the State Treasurer, not to exceed \$10,000, as may be provided by law for public officers.

Section 17. DISPOSITION OF LICENSE FEES AND FINES. The Executive Secretary and Financial Officer shall deposit all monies received by him under the provisions of this Act with the State Treasurer, auditing said money through the Comptroller's office, as is provided for other funds paid into the State Treasury, and all such money is hereby appropriated to the Milk Control Board to defray the expenses incurred in carrying out and enforcing the powers and duties granted and imposed by this Act, which shall be paid out of the treasury upon warrants drawn by the State Comptroller, upon approval by the financial officer and any one member of the Board, but the Milk Control Board shall in no event issue warrants in a total amount in excess of the sums of money paid by it into the treasury. All monies collected by the Milk Control Board under any prior act of the legislature, which the Board has on hand or on deposit in the State Treasury at the expiration of such prior act or at the commencement of this act are hereby appropriated to the Milk Control Board for use in carrying out the provisions of this act, the same as other monies collected by it from license fees provided by this act. All monies paid by the Milk Control Board into the state treasury shall be placed in a special fund therein, to be known as "Milk Control Board Fund," and used only for the purpose of the administration of this Act. The Milk Control Board shall have authority to borrow money and to pledge license fees accruing during the then current license year for the payment thereof, in the carrying out of its duties in the administration of this Act. The Books and Records of the Milk Control Board shall be subject to state audit, the same as any other state agency.

Section 18. CONSTRUCTION, EXCEPTIONS AND LIMITATIONS. The license required by this Act shall be in addition to all other license required by any statute of Alabama or any

municipality of the State of Alabama. This Act shall apply to every part of the State of Alabama, but shall not be construed to conflict with, alter or repeal laws in force relating to various Boards or departments of Health or any Municipal Ordinance regulating the health requirements of milk, nor the sanitary code or codes in force in any County or Municipality, or amendments thereof duly adopted insofar as they apply to or affect milk. If any clause, sentence, or paragraph or part of this Act or any order, rule or regulation of the Milk Control Board shall, for any reason, be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not effect, impair or invalidate the remainder of this Act or of said order, rule or regulation, but shall be confined in its operation to the clause, sentence, paragraph or part of this Act or order, rule or regulation of the Milk Control Board, directly involved in the controversy in which such judgment shall have been rendered. All other parts of this Act or of any order, rule or regulation of the Board, otherwise constitutional or valid, shall be held in full force and effect. No provision of this Act shall apply or be construed to apply to foreign or interstate commerce except insofar as the same may be effective pursuant to the United States Constitution, and to the laws of the United States, enacted in pursuance thereto. It is the intention of the Legislature, however, that the instance, whenever that may be, that the handling within the state by a milk dealer, producer, distributor or producer-distributor of milk produced outside of the state, becomes the subject of regulation by the state in the exercise of its police powers, the provisions provided for in this Act, affecting intrastate milk, shall immediately apply and the powers conferred by this Act shall attach thereto.

Section 19. ORDERS FIXING PRICES AND HANDLING CHARGES FOR MILK. The Milk Control Board shall investigate what are reasonable costs and charges for producing, hauling, bottling, packing, distributing, processing and marketing of milk and other service performed in respect to milk and what prices are reasonable for milk produced, marketed and sold in the several localities and markets of the state, and what prices will, under the various and under varying conditions existing in different markets, localities and zones of the state, best protect the milk industry within the state and insure a sufficient quantity of pure and wholesome milk to the inhabitants of the state and be most in the public interest. The Milk Control Board shall take into consideration the balance between production and consumption of milk, the cost of production and distribution in the marketing of milk, both retail and wholesale, and the purchasing power of the consuming public in the several localities, markets and zones throughout the state. Before fixing prices or handling, processing or transportation charges, the Milk Control Board shall hold public hearings in

the milk shed or milk sheds affected thereby, and hear evidence under oath relative to the prices to be fixed for the sale of milk in the milk shed where said prices are sought to be fixed, at which meeting the consuming public shall be entitled to offer evidence and to be heard, the same as persons engaged within the milk industry, but the Milk Control Board, in fixing prices, shall be entitled to consider matters within its own knowledge and matters within the knowledge of the various members representing the different interest on the Milk Control Board, as well as matters which it has ascertained from other milk sheds within the state and matter ascertained by it, affecting conditions as they relate to milk in other states. After conducting said public meetings and taking evidence the Milk Control Board may, at its discretion, take the evidence, and matters submitted to it under advisement and deliberate among itself in private and render a decision at a future date. Notice of all price fixing meetings shall be given to interested parties and to the consuming public by advertisement run in a newspaper having general circulation within the milk shed, which said notice shall be run at least once, not less than ten, not more than thirty days prior to the date set by the Milk Control Board for such hearing. Such publication shall be deemed sufficient and legal notice for all purposes required by this Act to be published. After holding such meetings and making such other investigation as the Milk Control Board may deem advisable, the Milk Control Board may fix by official order the following: (a) The minimum price or prices within the milk shed to be paid by milk dealers, producers, distributors and producer-distributors to producers and others for milk in its various grades and uses as the Milk Control Board may determine are best to carry out the provisions of this Act. The order of the Milk Control Board, with respect to the minimum prices to be paid to producers and others, shall apply to the locality or zone in which the milk is produced, the markets in which milk so produced is sold and may vary in different localities or zones or markets according to varying uses and different conditions, and the Milk Control Board may consider in fixing different prices for milk produced in different localities for milk ultimately sold in the same milk shed, the distance between the various localities where the milk is produced and the milk shed where it is ultimately consumed and may fix a different price for milk produced nearer the point where it is sold than for milk produced at a greater distance, or the Board may fix a standard price for the purchase of milk delivered at the plant of distributor or milk dealer within the zone and allow a deduction to the milk dealer or distributor from said price for milk received by such distributor or milk dealer at its plant outside of the milk shed, which deduction shall be only such amount as is found reasonably necessary to cover the cost of collecting and transporting said milk from the

point where it is produced to the point where it is consumed. When in the judgment of the Milk Control Board, it is necessary or advisable, due to seasonal fluctuations or other unstable conditions, in order to promote a proper balance between the supply of and the demand for milk, to fix a lesser price for milk which is produced in excess of what is needed for fluid milk consumption, the Milk Control Board may establish the quantity of milk which the distributor or milk dealer shall pay for the fluid or base milk price, and may establish a lesser price for milk which is produced in excess of what is needed for fluid milk consumption. For this purpose, the Milk Control Board may compute said quantity upon a uniform system of plant usage, classifying milk according to its various usage and establishing different prices which the milk dealer or distributor shall pay for each classification, or the Milk Control Board may, if it deems it most advisable, establish a base surplus system, placing all milk sold by a plant for fluid milk consumption, including all milk as defined in the definition of fluid milk in one classification, establishing a price therefor and all milk processed by such distributor or milk dealer into by-products into another classification, and fixing a lesser price for said surplus milk so used in the by-products classification, or the Milk Control Board may use a combination of both systems. The Milk Control Board shall have authority to use the different systems of classifications in different milk sheds or different localities of the State as it deems most advisable to carry out the provisions of this act. The Milk Control Board shall have the power to establish uniform rules and regulations for the apportionment of this quota of base milk among the various producers who furnish such distributors and milk dealers with their regular milk supply used for such purposes, and may adopt such systems for the apportionment of such base or higher price classification of milk among the several producers as it may determine to be the most just and equitable in the administration of this Act. For this purpose, the Milk Control Board may require any milk dealer or distributor to supply necessary information about the quantity of milk received from the producers during a specified period of time, and any other information necessary for the determination of this matter. The Milk Control Board may determine the price to be received by producers for milk within the quota or base or higher price classification of milk and for surplus milk or milk in excess of such producers quota. Each order fixing price or handling charges may classify milk for forms, classes, grades or use as the Milk Control Board may deem advisable and may specify the minimum or maximum price or both in each classification, grade or use as the Milk Control Board may determine. (b) The Milk Control Board is further empowered to fix the minimum or maximum prices, or both, to be charged, for milk sold wholesale or retail within each respective

milk shed where such milk is sold for fluid consumption, regardless of where such milk may have been produced; when sold by producers, producer-distributors, distributors, milk dealers or stores or any of them; to consumer, to stores, to hotels or restaurants, to other milk dealers or to anyone else who purchases milk. The minimum wholesale or retail price or prices to be charged for milk in any of its forms, grades or uses shall not be fixed higher than is reasonably necessary to cover the cost of ordinarily efficient and economic production, cooling, pasteurizing, distributing and marketing of such milk, which shall include, however, a reasonable return and profit upon labor and necessary investment. (c) The Milk Control Board may also fix the amount of charges to be allowed for the handling, transportation, cooling, processing, storing or distribution of milk or any one or more of such charges in any transaction between milk dealers and other milk dealers, milk dealers and distributors, producers and milk dealers or distributors, or between any two or more of them, as are ascertained, after a hearing as provided in this section to be just and reasonable. 2. After the Milk Control Board shall have fixed minimum or maximum prices or both for the sale, distribution, handling, processing, storing, transportation to be charged or paid for milk in any form, grade or use, included in the definition of milk, as used in this Act, or as classified or provided for in this Act, it shall be unlawful for any producer, producer-distributor, distributor, milk dealer, store, or their agents or employees, to sell or buy or to offer to sell or buy milk at any price less or more (where the Milk Control Board has established a maximum price) than such price or prices as shall be applicable to the particular transaction, and no method or device shall be lawful whereby milk is bought or sold or offered to be bought or sold at a price less or more than such price or prices as shall be applicable to the particular transaction whether by a discount or rebate, or free service or advertising allowance or a combined price for such milk together with other commodity or commodities or service or services, which is less or more than the aggregate of the prices for the milk and the price or prices of such commodity or commodities or service or services when sold or offered for sale separately or otherwise. The combining with milk of a commodity handled by the licensee at a price for the commodity other than milk at less than the price which such licensee sells such commodity other than milk to anyone who does not purchase milk shall be deemed to be combining one or more commodity or commodities with milk, which is less than the aggregate price for the milk and the other commodity combined. 3. The Milk Control Board may, upon its own motion, or upon application from time to time, alter revise or amend an official order theretofore made with respect to price or handling charges, or both, to be charged or paid for milk. Be-

fore making, revising or amending any order fixing the price of handling charges, or both, to be charged or paid for milk, the Milk Control Board shall hold a hearing on such matters in the same manner provided for herein for the original fixing of prices. All orders, rules and regulations of the Milk Control Board may be reviewed by certiorari as hereinafter provided for.

Section 20. **RULES OF FAIR TRADE PRACTICES.** In addition to the general and special powers heretofore set out, the Milk Control Board shall have the power to make and promulgate reasonable rules and regulations covering fair trade practices as they pertain to the transaction of business among licensees under this Act, including (a) Preventing false or misleading advertisement. (b) The misrepresentation of producers, milk dealers, producer-distributors, stores, distributors to consumers or among themselves, as such, pertaining to the quality of their product or service or of facts which they know to be false and which are made with the intent to deceive or defraud consumer or other milk dealers, producers, distributors, producer-distributors or stores. (c) Or to prevent any Act or combination of acts, on the part of licensees, intended to make inoperative the provisions of this Act. (d) To prevent sales promotion schemes which combine the giving of prizes with the purchase of milk directly or indirectly, or which makes a lottery of the sale of milk.

Section 21. **ILLEGAL PURCHASE OR SALES OF MILK BOTTLES.** The Board shall have the authority, and is hereby empowered to enforce all laws now in effect or hereafter enacted by the Legislature of Alabama pertaining to the wilful use, sale, offering for sale, purchase or the offering to purchase, of bottles, cans, crates, or other containers in which milk or milk products are sold and delivered.

Section 22. **CERTIORARI TO REVIEW.** Any person affected by any order or action of the Board, who deems himself aggrieved by any such order or act may within ten days after receiving notice of any such action or order, have such order, or action reviewed by a Writ of Certiorari by filing in the Circuit Court of the County wherein said action or order was taken or made, a verified petition setting out the specific order or action, or any part or parts thereof whereby said person deems himself aggrieved, and such court shall only consider such matters as contained in the petition. Upon such petition being so filed a Writ of Certiorari shall be issued out of such Court, directed to the Milk Control Board, requiring it to file with the Court the records upon which such action or order was made, and requiring said Board to file an answer to said petition within thirty days after service of said writ, and upon said Board's filing said answer, issue shall be joined thereon without further pleading and the case considered on said petition, the record of said Board, and the answer filed by

said Board, but no new or additional evidence shall be taken or heard by the Court. If new or additional evidence is discovered by any party after the hearing by the Milk Control Board, the same may be made grounds for a motion for a new hearing before the Milk Control Board under the rules applicable for similar motions for a new trial in the Circuit Courts of the State of Alabama. All such cases shall be given preferred settings, and shall be heard by the Court as speedily as possible after issue is joined. Such Court shall have the power to suspend or stay, such order or action by the Board complained of in such petition, pending final hearing only upon petitioner in error executing a bond in such an amount as the Court deems reasonably sufficient to compensate or cover any loss or penalty occasioned by such stay or suspension of such order or action, said bond to be payable to said Board, and in the event the order, or ruling of the Board is affirmed, execution shall be issued by said Court on said bond for such amount, if any, as the Court shall find necessary to compensate for damages sustained by such stay or suspension of such ruling or order, with cost of the proceedings, but in no case less than the reasonable cost of the transcript of the records of the Milk Control Board, which was had in the Proceedings wherein the order, rule or regulation was made, which was appealed from, which cost shall be paid over to the Milk Control Board, and deposited by it in the treasury for its use, the same as all other monies received by the Milk Control Board. Upon final hearing, such courts shall have jurisdiction to reverse, vacate or modify the order complained of, if upon consideration of the issues before the Court, the Court is of the opinion the order is unlawful or unreasonable. Nothing in this section shall be construed as depriving a defendant in a criminal prosecution of a trial by jury, arising out of the violation of any provisions of this Act.

Section 23. **HEARINGS—FEES.** Each officer, other than an employee of the Milk Control Board, who serves any subpoena of the Board, shall receive the same fees as the sheriff, and each witness who appears in obedience to a subpoena, before the Board or a member of its Executive Secretary, shall receive for his attendance the fees and mileage provided for witnesses in civil cases in county courts, which fees shall be audited and paid upon the presentation of proper vouchers, approved by any member of the Board and the Executive Secretary. No witnesses subpoenaed at the instance of a party or the Board, or one of its members, or its Executive Secretary, shall be entitled to compensation unless the Board shall certify that his or her testimony was material to the matter investigated.

Section 24. **COOPERATIVE CORPORATIONS.** It is the intent of the Legislature that no provision of this Act shall prevent, and no provision contained therein shall be deemed or con-

strued to prevent, a cooperative corporation, organized or operated under or subject to the provisions of Article 20 or 21, or amendments thereto, for Cooperative Marketing Associations and engaged in making collective sales or marketing of milk for the producers thereof, from blending the net proceeds of all its sales in various classes, and whether in fluid form or as manufactured products, both within and without the State, and paying its producers such blended price, with such deduction and for differential as may be authorized under contract between such corporation and its producers, or from making collective sales of milk of its members or other producers, or both, represented by it, at blended price, based upon sales thereof in the various classes, and whether in fluid form or as manufactured products, both within and without the State, and which price is to be paid either directly to the producers or to the cooperative corporation. Nothing herein contained shall prevent any milk dealer from contracting for his milk with such cooperative corporation in such manner, but all such contracts shall be upon the basis of the prices and handling charges fixed by the Board, with the result that the net price received for milk by the cooperative corporation shall be commensurate with such prices and handling charges; and further provided that no milk dealer shall receive from a cooperative corporation directly or indirectly, any discounts, rebates or compensation through rentals or otherwise for the purpose or with the effect of reducing the net cost to the dealer for milk purchased by or through a cooperative corporation. Also that no provision of this Act shall be deemed or construed to affect the contracts of such a cooperative corporation, with its producers, nor to affect or abridge the rights and powers of such a corporation conferred by the provisions of Article 20 or 21, or amendments thereto, for cooperative marketing associations, except as in this Act otherwise provided.

Section 25. COOPERATION WITH OTHER GOVERNMENTAL AGENCIES. In order to secure a uniform system of milk control, the Board is hereby vested with power, and it shall be its duty to confer and cooperate with the legally constituted authorities of other States and of the United States, including the Secretary of Agriculture of the United States, and for the foregoing purposes, the Board shall have the power to conduct joint hearings, issue joint or concurrent orders and exercise all its powers under this Act.

Section 26. VIOLATIONS MADE MISDEMEANORS—PENALTIES. It shall be unlawful for any person to violate any provision of this Act or any lawful order, rule or regulation of the Alabama State Milk Control Board. Any person required by this Act to be licensed, who shall produce, sell, distribute or handle milk in any way, except as a consumer, without first having obtained a license, as required of him by this Act, shall be guilty of

a misdemeanor and upon conviction, shall be punished by a fine of not more than Five Hundred (\$500.00) Dollars. Each days violation of this provision shall constitute a separate offense.

Section 27. ADDITIONAL REMEDIES. The Board may institute such action at law or in equity as may appear necessary to enforce compliance with any provisions of this Act or any lawful order, rule or regulation of the Milk Control Board, and in addition to any other remedy under this Act, the Milk Control Board may apply for relief by injunction, mandamus or any other appropriate remedy in equity without being compelled to allege or prove that an adequate remedy at law does not otherwise exist, nor shall the Board be required to give or post bond in any action to which it is a party whether upon appeal or otherwise. All legal actions may be brought by or against the Milk Control Board in the name of the Alabama State Milk Control Board and it shall not be necessary in any action to which the Milk Control Board is a party that such action be brought by or against the State of Alabama on relation of the Alabama State Milk Control Board. The Milk Control Board shall have the power to institute an action by its own attorney or counsellor, but it shall have the right, if it deems advisable to call upon any County Attorney or Circuit Solicitor, to represent it in the Circuit Courts of the State, or the Attorney General to represent it on an appeal to the Appellate Courts of this state, or it may associate its own counsellor with either in any Court.

Section 28. This Act shall take effect and be in full force immediately upon its passage and approval, and all other Acts or Statutes in conflict herewith, including an Act of the Legislature, known as House Bill 311—Hamner, passed at the regular session of the Legislature of 1935, and approved July 9, 1935, are hereby expressly repealed, effective immediately upon approval by the Governor of this Act.

Approved March 20, 1939.

No. 165)

(H 139—Smyer

AN ACT

To amend Section 2 of an Act of the Legislature of Alabama approved July 10, 1931, entitled, "An Act, To amend Section 17 of Article II, Section 35 of Article III, and Section 52 and 55 of Article V, of an Act of the Legislature of Alabama approved September 10, 1927, entitled 'An Act, To provide a code of laws authorizing and governing the issuance, sale, regulation, funding, refunding, paying, and retiring of bonds of the Counties and Municipal corporations, and to repeal Sections 2258, 2259, 2260, 2261, 2262, 2263, 2264, 2265, 2266, 2267, 2269, 2270, 2272, 2273, 2274, 2275, 2276, 2277, 2278, 2279, 2280, 2281, 2282, 2283, 2284, 2285, 2286, 2287, 2288, 2289, 2290, 2291, 2292, 2293, 234, 235, 236, 237, 238, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, and 266, Code

of Alabama 1923 and other laws or parts of laws in conflict with this Act.'"

Be it Enacted by the Legislature of Alabama:

Section 1. That Section 2 of an Act of the Legislature of Alabama approved July 10, 1931, entitled, "An Act, To amend Section 17 of Article II, Section 35 of Article III, and Sections 52 and 55 of Article V, of an Act of the Legislature of Alabama approved September 10, 1927, entitled, 'An Act, To provide a code of laws authorizing and governing the issuance, sale, regulation, funding, refunding, paying and retiring of bonds of the Counties and Municipal corporations, and to repeal Sections 2258, 2259, 2260, 2261, 2262, 2263, 2264, 2265, 2266, 2267, 2269, 2270, 2272, 2273, 2274, 2275, 2276, 2277, 2278, 2279, 2280, 2281, 2282, 2283, 2284, 2285, 2286, 2287, 2288, 2289, 2290, 2291, 2292, 2293, 234, 235, 236, 237, 238, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265 and 266, Code of Alabama of 1923, and all other laws or parts of laws in conflict with this Act.' " be, and the same is hereby amended so as to read as follows: "Section 2. That Section 35, of Article III, of said Act, be, and the same is hereby amended so as to read, as follows: "Section 35. Counties May Settle, Adjust And Refund Bonded Indebtedness:—The governing body of any County, having bonds outstanding, may, without an election, issue bonds of the county for the purpose of refunding such bonds to an amount not exceeding the principal amount of the bonds to be so refunded, and may also, without an election, issue bonds of the county from time to time for the purpose of refunding installments of not less than \$1,000.00 becoming due on outstanding serial bonds heretofore or hereafter issued.

Section 2. All laws and parts of laws in conflict with this Act be, and the same are hereby repealed.

Section 3. This Act shall take effect immediately upon its passage and approval by the Governor.

Approved March 14, 1939.

No. 167)

(H. 253—Flowers

AN ACT

To amend Sections 5, 6, 8, and 9 of an act entitled "An Act to regulate the practice of Architects and to create a State Board for Registration of Architects, with general control and supervision of such regulations to provide fees and expenses for such Board and fix penalties for any violations of this Act, approved July 17, 1931."

Be it Enacted by the Legislature of Alabama:

Section 1. That Sections 5, 6, 8, and 9 of the Act approved July 17, 1931, entitled, "An Act to regulate the practice of Archi-

fects and to create a State Board for Registration of Architects, with general control and supervision of such regulations; to provide fees and expenses for such Board and to fix penalties for any violations of this Act," be amended so as to read respectively as follows; Section 5. The Board shall hold a meeting within thirty days after its members are first appointed and qualified and thereafter shall hold at least two regular meetings each year. The Board shall elect annually a chairman, who must be a member of said Board and a Secretary, who may or may not be a member of said Board and the Board may, with the approval of the Governor, employ such other clerks, experts, attorneys, and other assistants as may be necessary in the carrying out of the provisions of this Act. The Board shall have the power, with the approval of the Governor, to fix the compensation of the Secretary and other employees. A quorum of the Board shall consist of not less than a majority of the members of said Board. Section 6. The Secretary of the Board shall receive and account for all monies derived from the operation of this Act and all moneys received by the Board under the provisions of this Act shall be by the Secretary certified into the State Treasury to the Credit of the Fund of the Board for Registration of Architects, who shall keep such monies in a separate fund to be known as the "Fund of the Board for Registration of Architects," which fund shall be drawn against only for the purpose of this Act as herein provided and any part of such fund, over and above the sum of \$50.00, as shall remain unexpended at the end of each calendar year shall be transferred to the General Fund of the State of Alabama. Each member of the Board shall receive ten dollars per day for attending sessions of the Board or its committees, and for the time actually spent in necessary travel in attending meeting of said Board or its Committees and in addition shall be reimbursed for necessary traveling and clerical expenses incurred in carrying out the provisions of this Act. All expenses certified by the Board as properly and necessarily incurred in the discharge of its duties including authorized compensations, additional legal services, experts, clerks, and office rent and supplies, shall be paid out of said fund on the warrant of the Auditor of the State, issued on requisitions signed by the Chairman and Secretary of the Board, provided however, that at no time in any one calendar year shall the total amount of warrants issued exceed the total amount of funds accumulated under this Act. The Secretary of the Board shall give a surety bond in a Surety Company qualified to do business in Alabama in the sum of \$3,000.00 payable to the State of Alabama and conditioned for the faithful performance of his duties under this Act. The Premium on said bond shall be paid out of monies in the State Treasury to the credit of the "Fund of the Board for Registration of Architects." Provided the Board may from year to year make donations from its surplus funds

to any State Educational Institution for the benefit of its library, specially provided for Architectural Education. Section 8. The Board shall receive applications for registration as an Architect only on forms prescribed and furnished by said Board and upon receipt of such application and the payment of a fee of \$25.00 to said Board, may issue to such applicant without detailed examination, a certificate or registration as an Architect provided such applicant meets the following requirements. (A) Any person, of good moral character who is at the time of the passage of this Act, engaged in the practice of Architecture under a Certificate of Registration issued by said Board in this State and who shall present to the said Board an affidavit to that effect within ninety days, after the passage of this Act may be entitled to receive such certificate to practice architecture without an examination by said Board, or (B) any person who holds a like unexpired certificate issued to him by proper authority in the District of Columbia or any State or any Territory of the United States or in any province of The Dominion of Canada in which the requirements for the registration of Architects, are approved by the Board as substantially equivalent to those fixed and determined by this Act, may be entitled to receive such certificate to practice architecture without an examination by said Board. The following facts established in the application may be regarded as prima facie "evidence" satisfactory to the Board that the applicant is fully qualified to practice architecture. (C) Graduation after a course of not less than four years in architecture from a school or college of architecture, approved by the Board as of satisfactory standing and an additional three years actual engagement in architectural work in the office or offices of a reputable Architect or Architects. (D) Persons who have passed the Junior or Senior Examination and received a certificate of "National Council of Architectural Registration Boards." All other applicants must be of good moral character and shall pass satisfactorily, under rules and regulations fixed by the Board, an examination to be conducted by three examiners selected by the Board. The examiners may conduct examinations at least twice a year. Such examiners must promptly make report and recommendations to the Board after each such examination. In determining the qualifications for registration, a majority vote of the members of the Board shall be required. In case the Board denies the issuance of a certificate to an applicant one half of the registration fee paid by the applicant shall be repaid by the Board to said applicant. Certificates for registration shall expire on the last day of December following their issuance or renewal and shall become invalid on that day unless renewed. Renewal may be affected at any time prior to or during the month of December by the payment of a fee of Five Dollars. Penalty or penalties not to exceed the sum of \$5.00 may be added by the Board to the renewal fee for failure to renew his or

her certificate on or before the last day of each December. Section 9. The Board shall have the power to suspend for a definite period, or to revoke the certificate of registration of an architect registered hereunder who is found guilty of any fraud or deceit in obtaining a certificate of registration, or of gross negligence, incompetency, or misconduct in the practice of architecture as determined by the board at a hearing; notice of the nature of the charges which have been placed against him and the time and place of said hearing, must be served upon the accused by registered mail, with a returned receipt requested, and addressed to his last known place of business, or residence, not less than ten (10) days before the date fixed for such hearing. In all cases of suspension, or revocation of a certificate of registration as herein provided for, the accused may appeal to the Circuit Court of Montgomery County, Alabama, in equity. Either party, the accused, or the Board, have the right to appeal from the final decree of said court as in such cases by law provided.

Section 10. All laws and parts of laws in conflict herewith insofar as they are in conflict are hereby repealed.

Approved March 16, 1939.

No. 169)

(H. 293—Mayhall

AN ACT

To provide that the proceeds of the excise tax levied by Schedule 138.1 of Section 348 of Chapter I of Article XIII of an Act entitled "An Act to Provide for the General Revenue of the State of Alabama," approved July 10, 1935, commonly known as the lubricating oil tax, shall when collected be covered into the State treasury to the credit of the State Highway Patrol Fund, and to repeal all laws and parts of laws, general, special or local, in conflict herewith.

Be it Enacted by the Legislature of Alabama:

Section 1. That the proceeds of the excise tax levied by Schedule 138.1 of Section 348 of Chapter I of Article XIII of an Act entitled "An Act to Provide for the General Revenue of the State of Alabama" approved July 10, 1935, commonly known as the lubricating oil tax, shall when collected be covered into the State treasury to the credit of the State Highway Patrol Fund.

Section 2. That all laws or parts of laws, general, special or local, in conflict herewith be and the same are hereby expressly repealed.

Section 3. That this Act shall be effective on the first day of the month next following its passage and approval.

Approved March 17, 1939.

AN ACT

To amend the title and body of an Act entitled "An Act to create a Department of Commerce for the State of Alabama; to prescribe its powers and duties; to provide for the appointment of a Director of the Department of Commerce; to transfer to the Department of Commerce, to be exercised by it and its subordinate Bureaus, all powers, duties, functions, authority, employees, appropriations and property now vested in and relating to the Banking Department, the Banking Board, the Building and Loan Board, the Superintendent of Banks, the Building and Loan Commissioner, the Bureau of Insurance, the Superintendent of Insurance and the Fire Marshal Ex-officio; to repeal all laws in conflict herewith," approved February 9, 1939, so as to read as follows:

Be it Enacted by the Legislature of Alabama:

Section A. That the title and body of an Act entitled "An Act to create a Department of Commerce for the State of Alabama; to prescribe its powers and duties; to provide for the appointment of a Director of the Department of Commerce; to transfer to the Department of Commerce, to be exercised by it and its subordinate Bureaus, all powers, duties, functions, authority, employees, appropriations and property now vested in and relating to the Banking Department, the Banking Board, the Building and Loan Board, the Superintendent of Banks, the Building and Loan Commissioner, the Bureau of Insurance, the Superintendent of Insurance and Fire Marshal Ex-officio; to repeal all laws in conflict herewith," approved February 9, 1939, be and the same is hereby amended so as to read as follows: "An Act to Create a Department of Commerce for the State of Alabama; to prescribe its powers and duties; to provide for the appointment of a Director of the Department of Commerce and to prescribe his duties, functions, powers and authority; to transfer to the Department of Commerce, to be exercised by it and its subordinate Bureaus, all powers, duties, functions, authority, employments, appropriations and property now vested in and relating to the Banking Department, the Banking Board, the Superintendent of Banks, the Bureau of Insurance, the Superintendent of Insurance, the Fire Marshal Ex-officio, the Building and Loan Department, the Building and Loan Board, and the Building and Loan Commissioner; and to repeal all laws in conflict herewith.

Be it Enacted by the Legislature of Alabama:

"Section 1. There is hereby created a Department of Commerce for the State of Alabama with subordinate bureaus and divisions as hereinafter provided.

Section II. The Department of Commerce shall consist of a Bureau of Banking, a Bureau of Insurance and a Bureau of Building and Loan.

Section III. The Bureau of Banking shall consist of: (a) a Banking Board of four members who shall be qualified, appointed, hold office and receive the same compensation as now provided by law for members of the Banking Board; (b) a Superintendent of Banks who shall be the chief officer of the Banking Bureau and who shall be qualified, appointed and hold office as may be provided by law for the Superintendent of Banks, and who shall be ex-officio a member and Chairman of the Banking Board; (c) such subordinate Divisions and employments as are herein provided for.

Section IV. The Bureau of Insurance shall consist of: (a) a Superintendent of Insurance who shall be the chief officer of the Bureau of Insurance and who shall be qualified, appointed and hold office as may be provided by law for the Superintendent of Insurance and who shall be Fire Marshal Ex-Officio; (b) such subordinate Divisions and employments as are herein provided for.

Section V. The Bureau of Building and Loan shall consist of: (a) a Building and Loan Board of three members who shall be qualified, appointed, hold office and receive the same compensation as now provided by law for members of the Building and Loan Board; (b) a Commissioner of Building and Loan who shall be the Chief officer of the Bureau of Building and Loan and who shall be the ex-officio a member and chairman of the Building and Loan Board and who shall be the same person who is appointed Superintendent of Banks; (c) such subordinate Divisions and employments as are herein provided for.

Section VI. The Governor shall appoint a Director of the Department of Commerce who may be Superintendent of Banks or Superintendent of Insurance. If either the Superintendent of Banks or the Superintendent of Insurance is appointed Director of the Department of Commerce, he shall only receive the compensation provided for the office of the Director of the Department of Commerce. The Director shall be the chief executive officer of the Department of Commerce and all of the powers, authority and duties vested in the Department of Commerce shall be exercised by the several Bureaus thereof under the supervision of the Director thereof.

Section VII. All powers, authority, duties and functions now by law vested in, conferred upon or required to be exercised by the Banking Department of the State of Alabama, the Banking Board of the State of Alabama and the Superintendent of Banks are hereby transferred to, vested in and conferred upon the Bureau of Banking of the Department of Commerce as herein created.

Section VIII. All powers, authority, duties and functions now by law vested in, conferred upon or required to be exercised by the Bureau of Insurance, the Superintendent of Insurance and the Fire Marshal Ex-Officio are hereby transferred to, vested in and

conferred upon the Bureau of Insurance of the Department of Commerce as herein created.

Section IX. All powers, authority, duties and functions now by law vested in, conferred upon or required to be exercised by the Building and Loan Department of the State, the Building and Loan Board and the Building and Loan Commissioner are hereby transferred to, vested in and conferred upon the Bureau of Building and Loan of the Department of Commerce as herein created.

Section X. The Department of Commerce shall be charged with the execution of all laws now in force or which may hereafter be enacted relating to corporations and individuals doing or carrying on a banking business in the State and all laws now in force or which may hereafter be enacted, relating to insurance, insurance companies, associations, exchanges and societies and their agents and representatives doing business in the State and all such laws relating to building and loan associations doing business in this State and all such laws relating to the office of Fire Marshal Ex-officio.

Section XI. All books, records, accounts, documents, papers, furniture, fixtures, supplies, material, equipment and other personal property and all lands, buildings and other real property possessed or used by, and all appropriations made for, any department, board, bureau, commission, agency or office of the State, the functions and duties of which are transferred to and conferred upon the Department of Commerce by this Act, are hereby transferred and assigned to the Department of Commerce and shall be delivered to or otherwise made available to the Director of Commerce upon his request.

Section XII. The Director of the Department of Commerce shall, with the approval of the Governor, determine the number of employees needed for the efficient and economical performance of the functions and duties of the Department of Commerce. All employments heretofore existing in any department, Board, bureau, commission, agency or office of the State, the functions and duties of which are transferred to and conferred upon the Department of Commerce by this Act, the right to appoint or nominate employees thereto and all appropriations for the payment of such employees, are hereby transferred and assigned to the Department of Commerce. The Director of Commerce shall, however, have the right to discharge any such employee, if, in his discretion, he shall conclude that the services of the employee are not needed or that the efficiency of the Department will be increased by the replacement of such employee. Employees determined to be needed and not transferred from some other department, board, bureau, commission, agency or office of the State, and employees to replace any employees so transferred, shall be appointed by the Director of Commerce.

Section XIII. Anything in this Act to the contrary notwithstanding, all employees and officers of the Department of Commerce, including the Chiefs of Bureaus, shall be subject to the provisions of any law with respect to the method of selection and classification of State employees which is now, or hereafter may be, in force and effect.

Section XIV. If any section, paragraph, sentence, clause, phrase, word or part of this Act be held invalid by any court of competent jurisdiction such action shall not affect the remainder of this Act.

Section XV. All laws and parts of laws in conflict herewith are hereby repealed."

Section B. This Act shall become effective upon its passage and approval by the Governor or its otherwise becoming a law.

Approved March 17, 1939.

No. 171)

(H.327—Newman

AN ACT

To provide for the establishment and maintenance of a Public Library Service Division in the State Department of Archives and History; to define its duties, powers and methods of operation; to provide for the appointment of the membership of the Executive Board, the Director and the employees of the Division, and to outline their duties; to authorize the power of contract between counties and cities for providing library service; to provide for cooperation with state agencies and institutions; and to provide for cooperation with Federal agencies in furtherance of the purpose of this Act.

Be it Enacted by the Legislature of Alabama:

Section 1. That in order to aid in the development of higher ideals of citizenship and the enlargement of opportunity for culture and recreation, and in order to afford an additional means for the further upbuilding of the educational facilities of the State, there is hereby created a Public Library Service Division in the State Department of Archives and History, which shall have as its chief objective the development of a cooperative system of providing books and library service for the various cities and counties of the State.

Section 2. EXECUTIVE BOARD. The Executive Board of the Division shall consist of five members, appointed by the Governor, and the Director of the Department of Archives and History shall serve as an ex-officio member of the Board. All appointed members shall be chosen by the Governor of the State of Alabama. The terms of membership of the appointed members of the Board as first appointed, for one member shall be for one year, for a second member shall be for two years, for a third

member shall be for three years, for a fourth member shall be for four years, and for a fifth member shall be for five years. Thereafter appointments shall be for five years, and all vacancies including expired and unexpired terms shall be filled by the Governor by appointment. Members of the Executive Board shall serve without compensation, but shall be allowed \$5.00 per day, plus transportation, while on official business, provided this time shall not exceed ten days per year for each member of the Board. It shall be the duty and power of the Executive Board to conduct the affairs of the Division, to administer the funds received from the State Treasurer that are allocated to the Public Library Service Division, and be responsible for the Division's program and such other activities as would naturally be administered by an Executive Board.

Section 3. DUTIES AND POWERS. The Public Library Service Division shall give advice to all free public, regional, city and county libraries and to all communities in the State which may propose to establish public libraries, in the manner hereinafter provided, as to the best means of establishing and administering such Public Library service; selecting and cataloging books and other details of library management; and may send any of its staff to aid in organizing such libraries, or to assist in the improvement of those already established; may advise as to the proper qualifications of librarians of free public, regional, city and county libraries, and shall perform such other services consistent with and in furtherance of the purpose of this Act as shall from time to time appear feasible. Moreover, the Division shall advise as to arrangements as provided in Section 1548 of the Code of Alabama 1923, by which local governmental agencies may combine in the establishment of joint units of library service. The Division may receive and shall administer all funds, books or other property, from whatever source, under such conditions as may be deemed necessary in order to carry out the purpose of the Act; and by the use of such means and methods as circumstances warrant the Division may acquire and operate traveling libraries and circulate or loan such books and libraries among communities, libraries, library associations, social and civic clubs and organizations and other public agencies and institutions under such conditions and rules as the Division deems necessary in order to protect the interests of the State and to increase the efficiency and promote the extension of Public Library service throughout the State.

Section 4. OFFICERS. The members of the Executive Board shall elect from its membership a chairman and a vice-chairman. The Board shall appoint a Director who shall be a graduate of an accredited Library School, shall have had a minimum of three years of library experience in an administrative capacity, and who is not a member of the Executive Board. Such

other trained members of the Staff of the Division shall be appointed by the Executive Board on the nomination of the Director of the Division as well as such other assistants as will be deemed necessary in carrying out purposes of this Act. The Director shall keep a record of the proceedings of the Division; shall keep accurate accounts of all financial transactions of the Division; shall have charge of its work in organizing new libraries and improving those already established and in general perform such duties as may from time to time be assigned by the Executive Board. In addition to their salaries, the Director and the assistants shall be allowed their actual expense while absent from the Division office in the service of the Division.

Section 5. DIVISION TO REPORT. The Division shall make an annual report to the Department of Archives and History and such other reports as the Department or Executive Board may from time to time require. The annual report shall show public library conditions and progress in Alabama and a statement of the expenses and activities of the Division. These annual reports shall be printed as other reports of the State Departments and shall be distributed by the Division.

Section 6. LIBRARY REPORTS. The Division shall each year obtain from all free public libraries in the State of Alabama reports showing the conditions, growth, development and conduct of said libraries. This provision shall not apply to the libraries of the Supreme Court of Alabama, the State Department of Archives and History, or school libraries aided and supervised by the State Department of Education, and the libraries of institutions of higher learning.

Section 7. This Act shall in no way affect the administration and supervision of public school libraries which have been or may hereafter be established by aid through the State Department of Education, except by agreement, nor shall this Act affect in any way the administration and supervision of public school libraries under the control of any city or county board of education except by agreement; nor shall it except by agreement affect or apply to libraries of institutions of higher learning; nor free public libraries in counties where a city having a population of not less than 65,000 already maintains a free public library.

Section 8. PREVIOUS LIBRARY LAWS. Any previous Library Laws now in effect and set forth in the 1923 Code of Alabama, which are in conflict with the provisions of the Act to establish and maintain the Public Library Service Division in the Department of Archives and History may, and the same are hereby repealed.

Approved March 17, 1939.

AN ACT

To provide for the public safety; to regulate the operation of motor vehicles on the public highways; to provide for the registration, examination and licensing of drivers or operators of motor vehicles and to fix the fees therefor; to authorize the Director of Public Safety, with the approval of the Governor, to establish and promulgate reasonable rules and regulations concerning the operation of motor vehicles; to provide punishment and penalties for the violation of the provisions of this Act and of the rules and regulations authorized hereby; to provide for the suspension and revocation of drivers' licenses issued; to authorize the appointment or employment of the necessary officers and agents, and the purchase of the necessary equipment to make the provisions hereof effective; and to provide for the compensation of the officers and agents so employed; and to repeal all laws and parts of laws in conflict herewith.

Be it Enacted by the Legislature of Alabama:

Section 1. That every person, except those hereinbelow exempted, before driving any motor vehicle upon a public highway in this state, shall procure a driver's license. The licensing period under this Act shall be two years from September 30, 1939, and each two years thereafter. Every driver's license issued under the present driver's license law of this state shall expire on September 30, 1939, but may be renewed, without examination, upon application and payment of the fee and in the manner hereinafter provided for. Every driver's license issued under this Act shall expire at the end of the licensing period during which the same is issued, but may be renewed, without examination, upon application and payment of the fee and in the manner hereinafter provided for. All renewals shall be for the licensing period herein provided for, but any license may be renewed at the end of each licensing period upon application and payment of the fee and in the manner hereinafter provided for.

Section 2. Such person shall apply under oath to the Judge of Probate of the county of his residence for said driver's license or a renewal thereof upon a form which shall be provided by the Director of Public Safety. At the time of filing any such application, the applicant shall pay to the Judge of Probate a fee of \$1.10, and the Judge of Probate shall give him a receipt therefor on a form provided by the Director of Public Safety.

Section 3. At the close of business on Monday of each week when any application has been received or temporary instruction permit hereinafter provided for has been issued, the Judge of Probate receiving such application or issuing such permit shall prepare a report of the same upon a form which shall be provided by the Director of Public Safety. One copy of such report, together with all applications received and copies of all permits issued shall be forwarded to the Director of Public Safety and one

copy shall be retained by the Judge of Probate. On the 10th day of every month the Judge of Probate shall prepare a report showing the number of applications received and permits issued and the amount of fees received during the previous calendar month. One copy of such report shall be forwarded to the Director of Public Safety, one to the State Comptroller, one to the State Treasurer, and he shall retain a copy. He shall also at said time deliver to the State Treasurer the amount of all such fees collected less ten cents (10c) for each application received or permit issued, which sum shall be retained by him, and shall be his sole compensation for performing any and all duties required of him under the provisions of this Act. All funds remitted to the State Treasurer under the provisions of this Section shall be kept in a separate fund in the State Treasury to be known as the "Highway Patrol Fund."

Section 4. The Director of Public Safety, upon receipt of applications for licenses from Judges of Probate, shall immediately examine the same and if no legal reason for the denial of the issuance of such license appears the same shall be immediately issued and mailed to the applicant at the address shown on his application upon a form provided by the Director of Public Safety.

Section 5. Every person who applies for an original driver's license under the provisions of this Act shall be given an examination before he makes application to the Judge of Probate for the issuance of a driver's license. Such person must first apply to the officer, patrolman or duly authorized agent of the Director of Public Safety, or one of them where there is more than one, designated by the Director of Public Safety to conduct examinations in the county of the applicant's residence, and he shall immediately be examined. Provided, however, that a person may be examined in a county other than the county of his residence by agreement in writing between him and the Director of Public Safety. The Director of Public Safety shall promulgate reasonable rules and regulations not in conflict with the laws of this State as to the kind of examination or test to be given and the method and manner of giving the same and ascertaining and reporting the result thereof. Reports of all examinations shall be on forms provided by the Director of Public Safety and must show whether or not the applicant passed the examination. If the applicant passes his examination, he shall then be given a certificate to that effect, on a form provided by the Director of Public Safety, by the officer, patrolman or duly authorized agent of the Director of Public Safety conducting the same, and he shall present said certificate to the Judge of Probate of his county together with his application for a driver's license, and the Judge of Probate shall attach the certificate to the application and forward the same to the Director of Public Safety along with the application at the time the application is sent to him. If any person fails to pass the examination given, no

certificate shall be given to him, and no application for an original driver's license shall be accepted by a Judge of Probate unless it is accompanied by a certificate showing that the applicant has passed the examination herein provided for. Provided, however, that a person who secures a renewal of his license in the manner herein provided shall not be required to take such examination unless the Director of Public Safety deems it advisable to require him to take the same. In such cases, where the Director of Public Safety deems it advisable for any reason to require any person who has already been issued a driver's license to take an examination, he shall notify such person in writing by letter sent to the address given by him on his application at least ten days before the date on which the examination or test is given, of the time and place in the county of his residence where the same shall be given. The examination given to such person shall be conducted in the same manner and the result thereof ascertained and reported in the same way as examinations given to persons applying for an original driver's license. Failure of any person to appear after notice to take such examination or test, or refusal by any person to take such examination or test, shall be grounds for suspension or revocation of his license by the Director of Public Safety. Any person to whom such examination or test is given who fails to pass such examination or test shall have his license revoked by the Director of Public Safety.

Section 6: Any person who, except for his lack of instruction in operating a motor vehicle, would otherwise be qualified to obtain a driver's license under this Act, may apply for a temporary instruction permit, and the Judge of Probate may issue such permit upon a form which shall be provided by the Director of Public Safety, entitling the applicant, while having such permit in his immediate possession, to drive a motor vehicle upon the highways for a period of thirty days, but, except when driving a motorcycle, such person must be accompanied by a licensed driver who is actually occupying a seat beside the driver. At the time of applying for such permit, the applicant shall pay to the Judge of Probate a fee of twenty-five (25c) cents, and the Judge of Probate shall give him a receipt therefor on a form to be provided by the Director of Public Safety. Such temporary instruction permit may be renewed only by order of the Director of Public Safety.

Section 7. Every licensee shall have his license in his immediate possession at all times when driving a motor vehicle and shall display the same, upon demand of a justice of the peace, a peace officer, or an officer or patrolman of the State Highway Patrol. However, no person charged with violating this section shall be convicted if he produces in court or the office of the arresting officer a driver's license theretofore issued to him and valid at the time of his arrest.

Section 8. A driver's license shall not be issued to the following persons: (a) Any person less than sixteen (16) years of age. (b) Any person whose driving right or privilege is suspended. (c) Any person whose driving right or privilege is revoked. (d) Any person who is an habitual drunkard or addict to the use of narcotic drugs. (e) Any person adjudged insane, or an idiot, imbecile, epileptic, or feeble-minded, until restored to competency by judicial decree, or released from a hospital for the insane, or feeble-minded, upon certification by the superintendent or medical director that such person is competent, nor then, unless the Director of Public Safety or Examining Officer is satisfied such person is competent to drive a motor vehicle with safety to persons and property. (f) Any person afflicted with, or suffering from, a physical or mental disability which, in the opinion of the Director of Public Safety or Examining Officer will prevent such person from exercising reasonable and ordinary control over a motor vehicle.

Section 9. The following persons when driving a motor vehicle under the following conditions are exempt from license hereunder: (a) Any person in the service of the Federal Government while driving an official motor vehicle in such service; (b) Any person while driving any road machine, farm tractor, or implement of husbandry temporarily driven or moved on a highway; (c) A non-resident who is at least 16 years of age and who has in his immediate possession a valid driver's license issued in his home State or country; (d) Any non-resident who is at least 16 years of age, whose home State or Country does not require the licensing of drivers, for a period of not more than ninety (90) days in any calendar year, if the motor vehicle so driven is duly registered in the home state or Country of such non-resident.

Section 10. (a) The Director of Public Safety is hereby authorized to cancel any driver's license upon determining that the licensee was not entitled to the issuance thereof hereunder or that said licensee failed to give the required or correct information in his application or committed any fraud in making such application. Upon such cancellation, the licensee must surrender the license so cancelled. If such licensee refuses to surrender such license, he shall be guilty of a misdemeanor and, upon conviction, shall be punished in the manner hereinafter provided. (b) The privilege of driving a motor vehicle on the highways of this State given to a non-resident hereunder shall be subject to suspension or revocation by the Director of Public Safety in like manner and for like cause as a driver's license issued hereunder may be suspended or revoked. (c) The Director of Public Safety is further authorized, upon receiving a record of the conviction in this State of a non-resident driver of a motor vehicle of any offense under the motor vehicle laws of this State, to forward a certified copy of such record to the motor vehicle administration in the State wherein

the person so convicted is a resident. (d) The Director of Public Safety is authorized to suspend or revoke the license of any resident of this State or the privilege of a non-resident to drive a motor vehicle in this State upon receiving notice of the conviction of such person in another State of any offense therein which, if committed in this State, would be grounds for the suspension or revocation of the license of a driver. (e) Whenever any person is convicted of any offense for which this Act makes mandatory the revocation of the driver's license of such person by the Director of Public Safety, the court in which such conviction is had shall require the surrender to it of the driver's license then held by the person so convicted and the court shall thereupon cause the same to be forwarded together with a record of such conviction to the Director of Public Safety. (f) Every court having jurisdiction over offenses committed under this Act, or any other Act of this State or municipal ordinance of any municipality in this State regulating the operation of motor vehicles on highways, shall cause to be forwarded to the Director of Public Safety a record of the conviction of any person in said court for a violation of any said laws other than regulations governing standing or parking, and may recommend the suspension of the driver's license of the person so convicted. (g) For the purposes of this Act the term "conviction" shall mean a final conviction. Also, for the purposes of this Act a forfeiture of bail to secure a defendant's appearance in court, which forfeiture has not been vacated, shall be equivalent to a conviction. (h) The Director of Public Safety shall forthwith revoke the license of any driver upon receiving a record of such driver's conviction of any of the following offenses, when such conviction has become final: 1. Manslaughter resulting from the operation of a motor vehicle; 2. Driving a motor vehicle by a person who is an habitual user of narcotic drugs or while intoxicated; 3. Any felony in the commission of which a motor vehicle is used; 4. Failure to stop and render aid as required under the laws of this State in the event of a motor vehicle accident resulting in the death or personal injury of another; 5. Perjury or the making of a false affidavit or statement under oath to the Director of Public Safety under this Act or under any other law relating to the ownership or operation of motor vehicles; 6. Conviction, or forfeiture of bail not vacated, upon three charges of reckless driving committed within a period of twelve (12) months. (i) The Director of Public Safety is hereby authorized to suspend the license of a driver without preliminary hearing upon a showing by court records or other sufficient evidence that the licensee: 1. Has been charged with an offense for which mandatory revocation of license is required upon conviction; 2. Is an habitually reckless or negligent driver of a motor vehicle; 3. Is an habitual violator of the traffic laws; 4. Is incompetent to

drive a motor vehicle; 5. Has permitted an unlawful or fraudulent use of such license; or 6. Has committed an offense in another State which if committed in this State would be grounds for suspension or revocation. (j) Upon suspending the license of any person as hereinbefore in this section authorized, the Director of Public Safety shall immediately notify the licensee in writing and upon his request shall afford him an opportunity for a hearing as early as practical within not more than thirty (30) days after receipt of such request in the county wherein the licensee resides unless the Director of Public Safety and the licensee agree that such hearing may be held in some other county. Such hearing shall be before the Director of Public Safety or his duly authorized agent, and upon such hearing the Director of Public Safety or his duly authorized agent may administer oaths and may issue subpoenas for the attendance of witnesses and the production of relevant books and papers and may require a re-examination of the licensee. Upon such hearing the Director of Public Safety or his duly authorized agent shall either rescind his order of suspension or, good cause appearing therefor, may extend the suspension of such licensee or revoke such license. If the hearing is conducted by a duly authorized agent instead of by the Director of Public Safety himself, the action of such agent must be approved by the Director of Public Safety. (k) The Director of Public Safety shall not suspend a license for a period of more than one (1) year. (l) The Director of Public Safety upon suspending or revoking any license shall require that such license shall be surrendered to and be retained by the Director of Public Safety except that at the end of the period of suspension such license so surrendered shall be returned to the licensee. If such licensee refuses to surrender such license, he shall be guilty of a misdemeanor and, upon conviction, shall be punished in the manner hereinafter provided. (m) Any resident or non-resident whose right or privilege to drive a motor vehicle in this State has been suspended or revoked as provided in this section shall not drive a motor vehicle in this State under a license, permit, or registration certificate issued by any other jurisdiction or otherwise during such suspension or after such revocation until a new license is obtained when and as permitted under this Act. (n) Any person denied a license or whose license has been cancelled, suspended or revoked by the Director of Public Safety except where such cancellation or revocation is mandatory under the provisions of this Act shall have the right to file a petition within thirty (30) days thereafter for a hearing on the matter in the County Court, Circuit Court or court of like jurisdiction in the county wherein such person resides, and such court is hereby vested with jurisdiction and it shall be its duty to set the matter for hearing upon thirty (30) days' written notice to the Director of Public Safety, and thereupon to take testi-

mony and examine into the facts of the case and to determine whether the petitioner is entitled to a license or subject to suspension, cancellation, or revocation of license under the provision of this Act.

Section 11. (a) Any person of whom a driver's license is required, who drives a motor vehicle on a public highway in this State without having first complied with the provision of this Act or the rules and regulations promulgated hereunder shall be guilty of a misdemeanor, and, upon conviction thereof before a justice of the peace or court of like or higher jurisdiction, shall be punished by a fine of not more than Ten Dollars (\$10.00). (b) Any person who wilfully makes a false statement under oath in an application for driver's license or for a renewal thereof shall be guilty of perjury and shall be punished as now provided by law. (c) Any person who wilfully conceals or withholds a material fact called for in such application with intent to obtain such license by such fraud, shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than One Hundred Dollars (\$100.00) and may be imprisoned at hard labor for the county for not exceeding twelve (12) months, to be fixed in the discretion of the Judge or Court trying the case. (d) Any person who violates any provision of this Act for which no fixed punishment is prescribed or who violates any rule or regulation promulgated as herein authorized, shall be guilty of a misdemeanor, and, upon conviction thereof before a justice of the peace or court of like or higher jurisdiction shall be punished by a fine of not more than One Hundred Dollars (\$100.00). (e) Justices of the Peace or Notaries Public ex-officio Justices of the Peace in their respective counties shall have jurisdiction but not exclusive jurisdiction to try any person charged with violation of this Act and shall be authorized to impose the penalties herein provided upon conviction. Provided, however, that they shall not have jurisdiction to try any person charged with a felony under the provisions of this Act, or to impose any sentence at hard labor under the provisions hereof, nor impose a fine in excess of \$100.00. (f) All fines, penalties or forfeitures imposed under the provisions of this Act shall be forwarded immediately upon the collection of the same by the officer of the court who collects the same to the Director of Public Safety, together with a report giving a list and description of each case in which a fine, penalty or forfeiture was collected. Such reports shall be on forms provided by the Director of Public Safety and shall contain such information as the Director of Public Safety may require. All such moneys received by the Director of Public Safety shall be covered by him immediately upon receipt into the State Treasury to the credit of the Highway Patrol Fund. (g) Any Justice of the Peace or Notary Public ex-officio Justice of the Peace who fails to make the reports provided for in the preceding

subsections, or who fails to remit any fines, penalties or forfeitures collected under the provisions of this Act in the manner provided in said subsection, shall be guilty of a misdemeanor and upon conviction shall be fined not more than One Hundred Dollars (\$100.00).

Section 12. Any person whose driver's or chauffeur's license issued in this or another State, or whose driving privilege as a non-resident, has been cancelled, suspended or revoked as provided in this Act and who drives any motor vehicle upon the highways of this State while such license or privilege is cancelled, suspended, or revoked, shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than Five Hundred Dollars (\$500.00), and in addition thereto may be imprisoned for not more than thirty (30) days.

Section 13. For the enforcement and administration of the provisions of this Act, to promote the public safety and generally to perform the duties imposed upon the Governor concerning the enforcement of all the laws, the Governor is hereby authorized to establish and purchase the necessary equipment for a State Highway Patrol to be headed by a Director of Public Safety to be appointed by the Governor, and whose salary shall be fixed by the Governor. The Director of Public Safety is authorized, with the approval of the Governor, to appoint such number of commissioned and non-commissioned officers as he and the Governor may deem necessary, whose salaries shall be fixed by the Director of Public Safety with the approval of the Governor. The Director of Public Safety, with the approval of the Governor, is authorized to appoint such number of patrolmen as is deemed necessary, whose compensation shall be fixed by the Director of Public Safety with the approval of the Governor. The Director of Public Safety, with the approval of the Governor, is authorized to employ and fix the compensation of such clerical assistants, stenographers, etc., as may be deemed necessary; provided, however, that no State Highway Patrol Officer shall be entitled to any costs, fees or mileage for attending any courts, but instead, the proper authorities shall collect such costs, fees and mileage that are due such officers for attendance on any court or for any official act and promptly turn the same over to the Director of Public Safety who shall cover the same into the Highway Patrol Fund, and it shall become a part thereof, such costs, fees and mileage to be expended as other moneys in said fund are authorized to be expended. Such officers and agents, when so authorized in writing by the Governor, shall have the power of Peace Officers in this State and may exercise such powers anywhere within the State. All persons so appointed shall hold office at the pleasure of the Governor and may be removed or discharged by him with or without cause. The compensation of the officers, agents and employees

provided for by this Act shall be paid by warrants drawn by the Comptroller on the Highway Patrol Fund in the State Treasury as the salaries of other State officials and employees are paid. The necessary expenses and the costs of necessary equipment, when approved by the Governor and the Director of Public Safety, are likewise to be paid by warrants drawn by the Comptroller on the Highway Patrol Fund in the State Treasury. There is hereby appropriated out of said Highway Patrol Fund in the State Treasury any or all moneys in said fund that may be necessary to pay the salaries and/or expenses provided for or incurred under the provisions of this Act. Provided, however, that of the moneys collected and paid into said Highway Patrol Fund as fees for driver's licenses and temporary instruction permits during the first fiscal year of any two year licensing period under this Act, not more than fifty-five per cent of the same may be expended during said first fiscal year for the purposes for which the moneys in said fund are hereby appropriated, it being the purpose and intention of this proviso to insure that at least forty-five per cent of the moneys collected during said first fiscal year as fees for driver's licenses and temporary instruction permits be preserved for the use of the State Highway Patrol during the second fiscal year of each two year licensing period under this Act. All such officers, agents, and employees shall perform all duties required of them by the Governor. Any person serving as an officer or member of said State Highway Patrol shall make bond in the amount of Two Thousand Dollars (\$2,000.00) payable to the State of Alabama and conditioned as a sheriff's bond is now conditioned, and the officers and members of the State Highway Patrol shall be subject to the same liabilities, penalties and damages under said bond as sheriffs are under their bonds. The premiums on said bonds shall be paid out of the Highway Patrol Fund, and such bonds shall be approved by the Governor and filed in the office of the Secretary of State.

Section 14. The Director of Public Safety, with the approval of the Governor, shall establish and promulgate reasonable rules and regulations not in conflict with the laws of this State concerning the enforcement of the provisions of this Act.

Section 15. (a) The Director of Public Safety shall file every application for a license received by him and shall maintain suitable indices thereto. (b) The Director of Public Safety shall also file all accident reports and abstracts of court records of convictions received by him under the laws of this State and in connection therewith maintain convenient records or make suitable notations in order that an individual record of each licensee showing the convictions of such licensee and the traffic accidents in which he has been involved shall be readily ascertainable and available for the consideration of the Director of Public Safety upon any application

for renewal of license and at other suitable times.

Section 16. In the event any driver's license issued under the provisions of this Act is lost or destroyed, the person to whom the same was issued may upon payment of a fee of twenty-five cents (25c) and upon furnishing proof to the Director of Public Safety that the same has been lost or destroyed, secure a duplicate. Application for such duplicate shall be made to the Director of Public Safety on forms provided by him.

Section 17. If any word, clause, sentence, paragraph or section of this Act shall be held unconstitutional, such holding shall not invalidate any other word, clause, sentence, paragraph or section not in and of itself unconstitutional.

Section 18. That the Act entitled "An Act to provide for the Public Safety; to regulate the operation of motor vehicles on the public highways; to provide for the registration and licensing of drivers or operators of motor vehicles and to fix the fees therefor. To authorize the State Highway Commission, with the approval of the Governor, to establish and promulgate reasonable rules and regulations concerning the operation of motor vehicles; to provide punishment and penalties for the violation of the provisions of this Act and of the rules and regulations authorized hereby; to provide for the suspension and revocation of drivers' licenses issued; to authorize the appointment or employment of the necessary officers and agents, and the purchase of the necessary equipment to make the provisions hereof effective; and to provide for the compensation of the officers and agents so employed," approved September 2, 1935, and all laws and parts of laws in conflict herewith be and the same are hereby repealed.

Section 19. That this Act shall become effective on September 30, 1939.

Approved March 18, 1939.

No. 182)

(H. 373—Hodo and Kaul

AN ACT

To amend sections 2, 3, 4, 6, 7, 8, 14, 16, 19, 20, 21, 23, 24, 25, 27, 29, 30 and 31 of an Act approved August 28, 1935, entitled "An Act to create and establish in each County of the State of Alabama which has a population of 200,000 or more people, according to the last Federal Census, or which may hereafter have a population of 200,000 or more people, according to any subsequent Federal Census, a County wide Civil Service System, affecting certain personnel whose compensation is now or may hereafter be payable in whole or part from the public funds of such counties or municipalities located therein; to create a Citizen Supervisory Commission and to create a Personnel Board and other agencies for the supervision and administration of said System in each of such Counties; to define the scope and extent of said System and the powers, duties and authority of said Commission, Board and other

agencies; to regulate and define the manner, form and extent of the control, supervision and authority of such agencies over such Personnel and over such counties and municipalities therein; to provide for payment of the expenses of each such agency and for a division of such expense between the county affected and the municipalities therein; to provide penalties for the violation of this Act and the rules and regulations adopted pursuant thereto; and to repeal all laws and parts of laws inconsistent with the provisions hereof."

Be it Enacted by the Legislature of Alabama:

That sections 2, 3, 4, 6, 7, 8, 14, 16, 19, 20, 21, 23, 24, 25, 27, 29, 30 and 31 of an Act approved August 28, 1935, entitled "An Act to create and establish in each County of the State of Alabama which has a population of 200,000 or more people, according to the last Federal Census, or which may hereafter have a population of 200,000 or more people, according to any subsequent Federal Census, a County wide Civil Service System, affecting certain personnel whose compensation is now or may hereafter be payable in whole or part from the public funds of such counties or municipalities located therein; to create a Citizen Supervisory Commission and to create a Personnel Board and other agencies for the supervision and administration of said System in each of such Counties; to define the scope and extent of said System and the powers, duties and authority of said Commission, Board and other agencies; to regulate and define the manner, form and extent of the control, supervision and authority of such agencies over such Personnel and over such counties and municipalities therein; to provide for payment of the expenses of each such agency and for a division of such expense between the county affected and the municipalities therein; to provide penalties for the violation of this Act and of rules and regulations adopted pursuant thereto; and to repeal all laws and parts of laws inconsistent with the provisions hereof," (General Acts 1935, page 691), be amended to read as follows:

Section 2. PERSONNEL BOARD CREATED AND THE EXTENT OF ITS AUTHORITY DEFINED. (a) There is hereby created and established, in and for each separate county of the State of Alabama which has a population of two hundred thousand or more people according to the last Federal Census and also for each county of the State of Alabama which shall hereafter come into such population class according to any subsequent Federal Census, a Personnel Board for the government and control by rules and regulations and practices hereinafter set out or authorized of all employees and appointees holding positions in the classified service of such counties and the municipalities therein whose population according to the last Federal Census was five thousand or more and such Board is now given and vested with such power, authority and jurisdiction. Provided, however, that such Board shall not govern any officers or appointees holding

positions in the unclassified service. (b) The Unclassified Service shall include: a) employees or appointees of a city or county Board of Education, a Board of Health or a Library Board; persons engaged in the profession of teaching or in supervising teaching in the public schools; officers elected by popular vote; the judge of any court; the County Attorney; the Director of Personnel; One Private Secretary of a member of the governing body; internes, resident physicians, student technicians and student nurses, while undergoing training in a hospital maintained by public funds; common laborers; Members of Boards who are not employed on a full time basis and are not required to devote their time and services exclusively to such counties and municipalities therein; attorneys, physicians and surgeons who with the express or implied permission of an appointing authority or of such county or city holds themselves out for employment by others in the same or a like line of work as that performed by them for such appointing authority; where there are two county sites or county courthouse sites maintained in one county and a county officer or officers are required to maintain an office in one courthouse and a branch or subsidiary office in the other of said courthouses, the Chief Deputy of each elective officer in charge of such branch office; the Chief Deputy Sheriff of any county; the Chief of Police and the Chief of the Fire Department of any city. The Classified Service shall include all other offices and positions in the county and municipal service. (c) It is hereby provided that in the event Chief of Police, Chief of Fire Department of any city that may come under this Act or Chief Deputy Sheriff of any county that may come under this Act, who is in office when this Act goes into effect or who shall later be promoted from lower grades or classifications, in the Police, Fire, or Sheriff's Department of such city or county, to one of such offices, and shall thereafter be removed, for any cause except a cause involving moral turpitude, from such office, such removed officer shall have the option to return to the grade, classification or position in such department which he occupied before being appointed to such office of Chief of Police, Chief of Fire Department, or Chief Deputy Sheriff. (d) Each member of the Board in all hearings before it may administer oaths, certify to official acts, issue subpoenas, compel the attendance of witnesses and the production of papers, books, and records and may punish for contempt of the Board in like manner and extent as may be done by courts of county commissioners. (e) A member of the Board or his employer shall be prohibited from selling materials, supplies or services to a county or municipality, unless such sales are made as the result of open competitive bidding. (f) The term "independent contractor", as used in this section, shall include a prospective independent contractor, and the term "appointing au-

thority", as used in this section, shall also include the public entity for which an appointing authority acts. The term "employee," as used in this act, shall not be deemed to include "independent contractors", but, in order to prevent evasions of the policy of this act, the Board shall have power to control, in the manner hereinafter specified, the use of independent contractors for performance of work for an appointing authority except in cases hereinafter specifically exempted from such control. The Board shall exercise constant vigilance to see that the policy of this act be not evaded by the use of independent contractors, and whenever the Board shall have reason to believe that work is about to be, or is being, done, continued or completed by an independent contractor for an appointing authority, and that such work is such as to be, or, at the time of commencement thereof, to have been, performable as well, practically, expeditiously and economically by one or more employees appointed, or appointable, under this act as by an independent contractor, the Board may serve such appointing authority and such independent contractor, if such independent contractor be known, with a written request to appear before the Board at a time and place specified in such written instrument and show cause, if any there be, why such work should not be done, continued or completed by one or more employees appointed, or appointable, under this act. Deposit of such written request in the United States registered mail, postage and registration fee prepaid and properly addressed, shall be sufficient service. At the time and place specified in said written request such appointing authority and independent contractor, or either of them, may appear, and, in such event, shall be accorded a fair hearing. If, upon such hearing, or in the event opportunity therefor be not availed of, in the absence thereof, the Board shall determine that such work is such, or of such character, as to be, or, at the time of commencement thereof, to have been, performable as well, practically, expeditiously and economically by one or more employees appointed, or appointable, under this act as by an independent contractor, and that no sufficient reason has been made to appear why such work should be performed by an independent contractor in preference to one or more employees appointed, or appointable, under this act, the Board may enter an order prohibiting the doing, continuance or completion of such work after a date specified in such order otherwise than by and through one or more employees appointed, or to be appointed, under this act, and no compensation shall be paid to, or received by, an independent contractor affected by such order for work done after the date specified in such order. In arriving at its determination the Board shall consider, among other things, and give appropriate weight, to the circumstance of whether or not competent persons are available for appointment under this act

for performance of the type of work involved, and of whether or not the type of work involved is such as may be reasonably expected to be continuous for an indefinite time, regularly recurrent, or sporadic, and of whether or not the type of work involved is such as is customarily and generally let to independent contractors, and of whether or not the appointing authority possesses, or should reasonably be expected to obtain, physical facilities for performance of such work by one or more employees appointed, or appointable, under this act. The Board, however, shall have no power to prohibit the use of independent contractors for the construction of viaducts, bridges, street improvements, sewers, canals, public buildings, or public utilities, and, should an appointing authority desire to do any such construction work by means of its own construction forces or employees, the Board, upon application to it first made, may, but is not required, to permit the doing of such construction work by construction forces or employees of the appointing authority not appointed under this act, subject to such conditions and limitations as the Board may prescribe. In order to forestall the possibility of prohibition by the Board of use of an independent contractor for the further performance of any work after such work has been let to such independent contractor, an appointing authority may apply to the Board in advance of the letting of any work to an independent contractor for permission to do so, such application to be in writing and to contain a copy of the proposed contract or such general description of its substance as may be satisfactory to the Board. The Board may grant such application with or without conditions or limitations, and if the same be granted the Board shall not thereafter prohibit any thing thus authorized. In its determination concerning grant or refusal of such application, the Board shall be guided by the same considerations as are hereinabove indicated for guidance of its determination upon the question of whether or not to prohibit the commencement or continuation of work by an independent contractor.

Section 3. MEMBERSHIP OF PERSONNEL BOARD. Said Personnel Board shall consist of three members designated respectively as Member Number One, Member Number Two and Member Number Three, each of whom shall be over 21 years of age, of recognized character and ability, a bona fide resident and qualified voter of such county and shall not, when appointed, nor for the three years then last past before the date of his appointment have held public office or political party office, nor have been a candidate for such and who shall not directly or indirectly have solicited membership on such Board, provided that in any county which is or may hereafter be divided by law into two divisions for the trial of cases in the Circuit Court of such county, not more than two members of the Board shall be residents of the same division. The Board shall meet once a month on dates to be fixed by its rules

and regulations and as much oftener as shall be necessary for the orderly dispatch of its business. The members of the Board shall be selected for the following terms and in the following manner: Members Number One, Two and Three shall be appointed within thirty days after this Act shall become a law in all counties now subject thereto by the Citizens Supervisory Commission of such County, which Commission shall likewise appoint their successors. In all counties hereafter becoming subject to the provisions of this Act said Board shall be appointed as soon as it is determined that such County is in the population class subject to this Act. Member Number One who shall be the Chairman of the Board shall hold office for a term of two years beginning on the date this Act becomes effective in such County and until his successor is appointed and has qualified. His successors shall hold office for terms of six years each beginning at the ends of the legal terms as distinguished from the possible holdover terms of their respective predecessors. Member Number Two shall hold office for a term of four years beginning on the date this Act becomes effective in such County and until his successor is appointed and has qualified. His successors shall hold office for terms of six years each beginning at the ends of the legal terms, as distinguished from the possible holdover terms, of their respective predecessors. Member Number Three shall hold office for a term of six years beginning on the date this Act becomes effective in such County and until his successor has been appointed and has qualified. His successors shall hold office for terms of six years each beginning at the ends of the legal terms, as distinguished from the possible holdover terms, of their respective predecessors. In the event of a vacancy on the Board occasioned by death, resignation, impeachment or other cause, such vacancy shall be filled by the Citizens Supervisory Commission for the then unexpired term. Each Member shall receive ten dollars for each meeting of the Board attended by him and ten dollars per day for attendance upon trials and hearings provided no Member shall receive more than one hundred dollars compensation during any one month. This compensation shall be paid as salaries of County Employees are paid on the warrant of the Member claiming such compensation.

Section 4. CITIZENS SUPERVISORY COMMISSION. (a) There is hereby created and vested with the powers hereinafter set out a Citizens Supervisory Commission of not less than five persons for each County subject to this Act which shall consist of the persons, who now are and who from time to time shall be: (1) The Judge or Judges of the District Court or Districts Courts of the United States, for the District or Districts having exclusive or concurrent territorial jurisdiction of such county or the largest part thereof, provided he or they be residents of such county. (2) The Presidents or other chief executive officers, by whatever name

called, of the two institutions of higher learning, if there be any, in such county, having the greatest number of bona fide resident students. (3) The President or other Chief Executive Officer of the Association, Group or Society, if there be one, in such County, comprising within its membership at least fifty-five per cent of the licensed, practicing physicians resident in such county and provided that not less than ninety per cent of the membership of such Association Group or Society shall consist of licensed physicians and provided that any reputable citizen of such county who shall be licensed by the State of Alabama to practice medicine and who shall have paid his state and county license fee to practice, shall under the rules of such Association, Group, or Society, be eligible to membership therein. (4) The President or other Chief Executive Officer of the trades council, Group, Society or Association, if there be one in such county or in any city in such county subject to this Act, with which is affiliated more than one-half of the unions or other organizations of the workers in the organized trades and crafts in such county or city, provided that no union or other labor organization shall be counted for the purposes of this Act as affiliated with more than one such Trades Council, Group, Society or Association in such county or city, and provided that no council, group, society, or association shall be recognized unless it was in existence and properly functioning six months prior to the time this Act becomes effective in such county and provided that if there be no Council, Group, Society or Association in such county or city, with which is affiliated more than one-half of the unions or other organizations of the workers in the organized trades and crafts in such county or city, then the Council, Group, Society or Association having the largest affiliation of such unions or organizations shall be here designated. It is contemplated that one Member be seated for any county-wide Council, Group, Society, or Association or one for each such city organization if there be no county-wide organization of the character described. (5) If there be in such county as many as three or more trades, crafts, groups or divisions of workers who are organized into what are commonly known as labor unions or organizations whose organizations are not affiliated with the Trades Council, Group Society or Association described in the subparagraph (4) immediately preceding this subparagraph, then such organized crafts, groups or divisions of workers may in any manner agreeable to the majority of the presidents or other chief executive officers of the locals of such non-affiliated labor organizations located in such county select one of such presidents as a member of the Citizens Supervisory Commission who shall remain a member of such Commission as long as his electors shall designate. This subparagraph shall be applicable solely to the County as a whole and not as to the separate cities therein. (6) The President or other Chief Executive officer of the

Chamber of Commerce or other most nearly similar organization of each city subject to this act in such county, provided, that by "Chamber of Commerce" is meant an organization in existence six months prior to the time this Act becomes effective in such county, to membership in which any reputable man engaged in mercantile, manufacturing, banking, jobbing or similar businesses is eligible, and which, most nearly of all organizations in such city, regardless of name, performs the functions of such organizations as are commonly known as Chambers of Commerce. (7) The President or other Chief Executive officer of the Junior Chamber of Commerce or other most nearly similar organization of each city subject to this Act in such county, provided that by Junior Chamber of Commerce is meant an organization substantially similar to Chambers of Commerce as defined hereinbefore, except that membership therein may be restricted by an age qualification, and provided that such organization must have been in existence for six months in such city when this Act became effective therein, and if there be no organization in such city substantially like a Junior Chamber of Commerce, representation for such city under this Classification shall fail. (8) The President, Chairman or other chief executive officer of any County-wide Council Group, Society or Association of Camps of United Confederate Veterans. By a Camp of United Confederate Veterans is meant a local organization with its meeting place in such County of persons who are residents of Alabama and who actually served as soldiers or sailors in the army or navy of the Confederate States of America or State of Alabama for or during the period of War Between the States. If at any time there be no such County-wide organization of such Camps, then the President, Chairman, Commander or other chief executive officer of the Camp in the County which as of the first day of January of each year has the largest bona fide membership. (9) The President, Chairman or other chief executive officer of any County-wide Council, Group, Society or Association of Camps of United Spanish American War Veterans. By a Camp of United Spanish American War Veterans is meant a local organization with its meeting place in such county of persons who are residents of Alabama and who actually served as soldiers, sailors or marines in the armed services of the United States of America for or during the period of war between the United States and Spain. If at any time there be no such County-wide organization of such camps, then the President, Chairman, Commander or other Chief executive officer of the Camp in the county which as of the first day of January of each year has the largest bona fide membership. (10) The President, Chairman, or other chief executive officer of any County-wide Council, Group, society or Association of Posts of the American Legion. By Post of the American Legion is meant a local organization with its meeting place in such county of persons who are residents of

Alabama and who actually served as soldiers, sailors or marines in the armed services of the United States of America for or during the period of the World War. If at any time there be no such County-wide organization of such Posts, then the President, Chairman, Commander or other chief executive officer of the Post in the County which as of the first day of January of each year has the largest bona fide membership. (11) The President or other chief executive officer by whatever name called, of each city-wide Parent-Teacher Association in each city subject to this Act. (12) The Chairman of the Engineering Council of the Engineer's Club of each city in the County having such an organization. (13) The President of the County Truck Growers Association, if there be one in the County. (14) The Probate Judge of such county. In the event one or more of the foregoing persons fail or refuse to serve, such fact shall not invalidate the acts of the Commission, provided as many as five members of the Commission serve. (b) The Citizens Supervisory Commission shall meet and organize in each county to which this Act is applicable when passed in the main courthouse of such county, at twelve o'clock noon on the second Tuesday after this Act shall have been signed by the Governor or become a law by other process, and in all counties subsequently coming into the population class to which this Act is applicable, on the second Tuesday after official publication of the Federal Census establishing such population at like hour and place. A majority of the persons serving as members of the Commission shall constitute a quorum to do business but a less number may adjourn from time to time and compel the attendance of absent members in such manner and under such penalties as may be prescribed by the rules and regulations of the Commission. Each member of the Commission, unless he be an officer or employee of a county or municipality subject to this Act shall be paid a per diem of ten dollars for attending a meeting of the Commission. These expenses and the cost of giving notice of meetings shall be paid as other expenses of the personnel system are paid. The Commission shall adopt, from time to time, such rules, regulations and modes of procedure as it deems expedient to enable it to dispatch in an orderly manner its business. (c) The Probate Judge shall be both temporary and permanent Chairman of said Commission and shall have a vote only in case of a tie. He shall also examine and pass upon the credentials and right of each person presenting himself for membership on said Commission to sit thereon both at the organizational meeting and at all subsequent meetings. The Probate Judge shall discharge his duties hereunder, under the sanction of his oath as Judge of Probate and he shall administer the oath of office to the other members of such Commission prescribed by Section 279 of the Constitution of this State. The Chairman may

call upon the Sheriff of the county or any deputy sheriff thereof, to attend the meetings of the Commission and preserve order and execute the decisions, rulings and orders of the Commission and of the Chairman thereof. The Chairman may punish for contempt of the Commission in like manner and extent as may be done by the Circuit Courts of this State. The Chairman of the Commission shall be the keeper and custodian of the minutes, records, property and paraphernalia of the Commission, and may call upon the Director of Personnel to furnish him such clerical assistants, supplies and place of safe deposit for such records and property as he deems necessary. The Chairman or the Director of Personnel under his supervision shall establish and keep in the office of the Director of Personnel a roster of the membership of the Commission by place, office or position, and keep as nearly as possible up to date the changes in the persons occupying such places, offices or positions and it shall be the duty of each person vacating a place, office or position which entitled him to a seat on such Commission to notify the Chairman of the name and address of the person who in his opinion, is, under the law, his successor on such Commission. (d) At the organizational meeting all persons ruled eligible by the Chairman to sit on said Commission shall be seated as such and shall vote on all questions arising at such meeting. At any time after the organizational meeting has adjourned, any citizen of such county may file with the Chairman of the Commission written objection to the right of any person to sit on said Commission. Such objection shall be based on the sole ground that that such person is not one of those designated by this Act for membership on such Commission. The Chairman shall rule upon said objection in writing and the first order of business at the next meeting of the Commission shall be a report by the Chairman of the objections and his ruling thereon. If no member of the Commission other than the person affected by such ruling appeals from the ruling of the Chairman, his ruling shall be final; if any appeal is made from the ruling of the Chairman, all persons then seated, except the member affected, shall be entitled to vote on said appeal. In all matters a majority vote of the Commission present, if a quorum be present, shall govern. The Commission shall, except as herein otherwise provided, be the judge of the qualifications of its own membership. In addition to the original organizational meeting here prescribed, the Commission shall meet once each year to receive the annual report of the Personnel Board and to make such recommendations to the Board as it shall seem in the interest of the sound administration of this Act in such county and to elect a successor to any Member of the Personnel Board whose term will expire before the next annual meeting of the Commission. Such annual meeting shall be held at noon on the third Tuesday in November. The

Chairman of the Commission or any five members thereof may call a meeting of the Commission at the Courthouse at the County site of the County, at noon on any Tuesday they deem it in the public interest for it to meet. Such notice shall be signed by the person or persons calling such meeting and shall state briefly the purposes of the meeting; shall be mailed to each person registered as a member of the Commission or known to be such and published once each day for three consecutive days immediately preceding such meeting in some daily newspaper published in such County; if no such paper is published in the County, then by posting in a public place in the main and each branch Court House in the County and in the City Hall of each City in the County subject to this Act, more than five days before such proposed meeting. Notice of the annual meeting shall be given in like manner, but failure of any member to receive notice by mail of any such meeting, either annual or special, shall not invalidate it. Failure to call an annual meeting shall not invalidate it. The members of the Personnel Board may be removed for cause at any regular or called meeting of the Commission by a majority vote. The Chairman of the Commission shall appoint an auditing committee at each annual meeting from the members of the commission to review and audit the books of the Personnel Board and Director, make a written report and deliver same to each member of the Commission.

Section 6. CREATION OF OFFICE OF DIRECTOR OF PERSONNEL. (a) The office of Director of Personnel is hereby created for each county affected by this Act. The Board shall elect and fix the salary of the Director who shall hold office at the will of the Board. After the second year during which a County shall be subject to this Act the Director shall be a bona fide resident of such County and a voter thereof and his salary shall not exceed \$4,200.00 per year. The Director's salary shall be payable monthly upon the warrant of the Board signed by two members thereof, drawn upon the treasury or depository of the county and shall be paid out of the general funds of the county. The Director of Personnel shall act as Secretary at Board meetings, and shall be the Board's executive officer, but shall not have a vote in determining the Board's policy. He shall perform such duties as are assigned to him by the Board. He shall not be eligible to appointment or election to any public office in any County or City whose personnel he shall have assisted in administering within three years after the date he shall have ceased to be such Personnel Director. (b) The Director shall appoint one employee of the Department to be his deputy. In case of the absence of the Director or his inability from any cause to discharge the powers and duties of his office, such powers and duties shall devolve upon his deputy.

Section 7. DUTIES OF PERSONNEL DIRECTOR. The Director of Personnel, subject to the provisions of this Act and approval of the Personnel Board, shall: (1) Subject to the approval of the Board appoint or remove such subordinates as may be necessary to administer a scientific and economical personnel system and fix their compensation. If at any time the Citizens Supervisory Commission recommends that the number of such subordinates or their compensation be reduced, such recommendation shall be immediately put into effect. (2) Prepare and submit to the Board for its consideration and approval such forms, rules and regulations as are necessary to carry out the provisions of this act, including rules governing examinations, appointments, suspensions, dismissals, certification of eligibles, reduction in force, sick leave, leave of absence, resignation, reinstatements, promotions, demotions, transfers, salary adjustments, and any and all other rules and regulations necessary for administering a scientific and economical personnel or Civil Service System. Such rules and regulations must be approved by a two-thirds majority of the Personnel Board before becoming effective after which they shall have the force and effect of law unless they are contrary to the provisions of this Act. (3) Classify or direct the classification of all positions to be held under either municipal or county authority in accordance with the provisions of this Act and in accordance with the duties attached to such positions. (4) Grade and classify all positions in the County and in each city in the County and for each appointing authority with respect to salary to the end that each employee shall receive the same compensation as all other employees of the county or city from which he receives his compensation receive for the same grade and class of service. (5) Establish, after consultation or offer of consultation with the governing bodies affected and with the written approval of the Board, a minimum and maximum salary schedule or pay plan for all positions, which shall become effective within thirty days after submission to the governing body concerned, provided that the governing body of each county and municipality affected hereby may raise or lower such schedule (1) by applying the same percentage of increase or decrease to the entire schedule or (2) by applying the same flat sum of increase or decrease to each position in the entire schedule. Changes in the salary schedule of one classification or a number of classifications less than all, may be made by a governing body only upon approval by the Board. (6) Provide, by proper rules, regulations and orders, subject to approval by the Board, for the advancement of salary within each grade on the basis of efficiency and length of service. Such salary schedules, classes and grades may from time to time be amended, added to, consolidated or abolished. Any appointing power authorized by law to fix the compensation of an

employee or appointee, subject to the provisions of this Act, must so fix said compensation in accordance with the classification and salary schedule herein provided and the question of whether or not the employee has been referred to the proper grade and classification shall be a matter subject to the decision of the Board. (7) When the classification is completed and the compensation schedule for each appointing authority determined as herein provided all employees receiving a salary in excess of the maximum for the class and grade in which they are employed shall be reduced by the appointing authority to or below the maximum; those receiving a salary less than the minimum for the class and grade in which they are employed shall be increased to or above the minimum, provided there are sufficient funds available.

Section 8. EXAMINATIONS. (a) The Director shall prepare and conduct examinations to determine the merit, efficiency and fitness of applicants for positions. Such examinations shall be thorough and practical and shall relate to those matters which fairly test the relative capacity and fitness of the person examined to discharge the duties of the position he seeks. (b) In the case of laborers subject to this act, the Director may rate the applicants solely on experience, physical qualifications and diligence which may be determined by such evidence and in such manner as may be directed by the Board. Such applicant may be required to take such further tests as the Director with the approval of the Board deems necessary. (c) The Director shall prepare a list of minimum requirements which the applicants must possess before they are eligible to participate in any specific examination. He shall determine the relative weight which shall be allowed for written examinations, for oral examinations and for training and experience. (d) The Director shall require an applicant to file in the Personnel Office, in accordance with the rules and regulations, a formal application before he is admitted to any examinations. Blank forms for such applications will be furnished upon the payment of an examination fee of one per cent of the Minimum Monthly salary of the position, the fee not to exceed \$1.50 which fee shall be paid into the county treasury. The Director may require in connection with applications, such evidence of residence, citizenship and right to vote and certificates of physicians, public officers, former employers or associates or others having knowledge of the applicant as the good of the service may require. (e) The Director may refuse to examine, or after examination refuse to certify as eligible anyone who is found to lack any of the established minimum requirements for the examination or position for which he applies or who is physically so disabled as to be unfit to perform the duties of the position to which he seeks appointment or who has been guilty of crime involving moral turpitude, or infamous or disgrace-

ful conduct or who has been dismissed from the public service for delinquency or misconduct or who has intentionally made a false statement of any material fact or practiced or attempted to practice any deception or fraud in his application, in his examination or in securing his eligibility. Any person appointed to a position under the provision of this Act who has secured his place on the eligible list through fraud shall be removed by the appointing officer and shall not thereafter be eligible for examination for any position under the provisions of this Act except by unanimous permission of the Board. (f) An eligible list containing the names of all persons who successfully passed the examination, ranked in order of their final earned average, from highest to lowest, shall be established as a result of each examination. The effective term of each list shall be fixed by the Board at not less than one year.

Section 14. SURVEY OF NECESSITY FOR PERSONNEL. The Director of Personnel shall have authority to investigate concerning the number of employees in any department or office and if in his judgment, after conference with the department head, there are an excessive number of employees in proportion to the amount of work required in such department or office, he shall recommend in writing to the department head and the governing body that the excess number of employees be laid off or transferred either permanently or temporarily in accordance with the provisions of this Act. Final determination shall be vested in the governing body. He shall also study the organization and procedure of the different departments and suggest to the heads of the departments such changes in procedure as may increase the efficiency or enable the organization to carry on its work more economically and with a reduced staff.

Section 16. STATUS OF PRESENT EMPLOYEES. The names of all employees or appointees holding positions, at the time of the taking effect of this Act which if vacant, would be filled under the provisions of this Act, and who have held such positions for a period of twenty-four months prior to the date this Act becomes effective shall be entered in said Roster and shall be deemed appointed under the provisions of this Act and to have acquired permanent civil service status in the grade and classification held at the time this Act becomes effective in such county. All employees or appointees holding such positions who have served in such positions a less period than two years and more than twelve months shall be deemed to have been appointed under the provisions of this Act and to be serving their probationary period. After such employees or appointees have served satisfactorily in such position for a period of two years, they will be considered to have attained permanent civil service status. All employees or appointees who have served satisfactorily in such positions for less than twelve months shall be deemed temporary appointees and will be required

to take and pass appropriate examinations or be replaced by other applicants who have taken and passed such examinations. Whenever the appointment or employment of new or additional officers or employees of such counties, municipalities or appointing authorities, therein, is hereafter authorized by law, such officers or employees shall be subject to the provisions hereof and included within the county and municipal civil service unless of a class excepted herein. The Board may in its discretion extend or grant permanent status to any or all employees or appointees of counties or municipalities who come under the provisions of this act subsequent to the date it becomes effective.

Section 19. APPOINTMENTS. (a) Vacancies in the classified service shall be filled either by transfer, promotion, appointment, re-appointment or demotion. (b) Whenever a vacancy in an existing position is to be filled by appointment, the appointing authority shall submit to the Director a statement of the title of the position and if requested by the Director to do so, the duties of the position, and desired qualifications of the person to be appointed, and a request that the Director certify to him the names of persons eligible for appointment to the position. The Director shall thereupon certify to the appointing authority the name of the three ranking eligibles from the most appropriate register, and if more than one vacancy is to be filled the name of one additional eligible for each additional vacancy, or all the names on the register if there are fewer than three. If it should prove impossible to locate any of the persons so certified or should it become known to the Director that any person is not willing to accept the position, the appointing authority may request that additional names be certified until three persons eligible and available for appointment have been certified. Within ten days after such names are certified the appointing authority shall appoint one of those whose names are certified to each vacancy which he is to fill. (c) When a new position is created by the governing body the appointing authority shall notify the Director of the duties of the position and the desired qualifications of the person to be appointed. If there is no appropriate eligible list from which certification can be made, the Director shall establish such a list within 45 days after receipt of the request and no provisional appointment shall be authorized within that time except with the unanimous approval of the Board. (d) The appointing authority shall report to the Director the name of the person appointed, the effective date of appointment, and such other information as may be required. The names of the remaining eligibles certified shall be returned to the eligible list for certification to the next vacancy which may occur. The name of an eligible may be removed from the eligible list after it has been certified and refused three times. (e) All appointments shall be made

for a probationary period of twelve months. During such period the appointing authority may remove an appointee upon filing with the Director, in writing, his reasons for such action which action shall not be reviewable. After the expiration of the probationary period the employee shall have earned permanent status subject to the provisions of this Act as to removals, suspensions and changes. (f) No person shall be appointed under any title not appropriate to the duties of the position to which he is appointed except by the consent of the Director. (g) When the position to be filled involves fiduciary or financial responsibility or law enforcement, the appointing power or the Board may require the applicant to furnish a reasonable bond or other security in an amount and form to be fixed by the appointing authority subject to the approval of the Board provided that where the amount and terms of such bonds are now prescribed by law, such provision of law shall remain in effect. Said bond or security shall be approved by the appointing power and kept by it and conditioned as it prescribes unless otherwise now provided by law.

Section 20. LOCAL CITIZENS APPOINTED. The appointing authority in all cases not excepted or exempted under the provisions of this Act or the Constitution of the State, shall fill positions in the county or municipalities herein, by appointment, including cases of transfer, reinstatement, promotions and demotions, in strict accordance with the provisions of this Act and the rules and regulations prescribed from time to time hereunder and not otherwise. Provided that the Director shall not certify for appointment the names of non-citizens of the territory to be served by the appointee so long as there are citizens thereof eligible for appointment.

Section 21. VACATIONS. (a) All permanent employees holding regular full time positions under the jurisdiction of this act shall be allowed a vacation with pay at the rate of one work day per month of service. Such vacation allowance shall be cumulative to not to exceed 26 work days. The time for such vacation shall be determined by the appointing authority except that the employee, if a vacation has not been allowed him during the calendar year, may demand that he be given a vacation not exceeding twelve work days. (b) Employees who resign in good standing or who are separated from the service without fault or delinquency on their part shall be allowed credit for vacation earned. (c) Any employee who is dismissed for cause shall forfeit all vacation allowances.

Section 23. PROVISIONAL APPOINTMENT. When there is no eligible list from which a vacancy in an existing position may be filled, the Director may certify to the appointing authority the names of all persons who have filed notice of their intention to take an examination appropriate to the position, and whom after

investigation appear to have had experience or training which qualify them for the position, and a provisional appointment from among the number may be made by the appointing authority pending the establishment of an eligible list. No provisional appointment shall be continued for a period of over ten days after the establishment of an eligible list and in no event shall be continued for a longer period than four months.

Section 24. PROMOTIONS. Within the discretion of the Director of Personnel, vacancies in positions shall be filled, in so far as practicable by promotion from among employees holding positions in the classified service. Promotions shall be based upon merit and competition and upon the superior qualifications of the person promoted as shown by his records of efficiency. When promotional examinations are given all employees who attain a passing grade shall have added to that grade one point for each year of service up to and including twenty years.

Section 25. TRANSFERS AND REINSTATEMENTS. (a) An appointing authority may, at any time, assign a classified employee under his jurisdiction from one position to another in the same class. (b) Any classified employee, holding permanent status, may be transferred from one department to a position in the same class in another department or government, provided that the Director has authorized the transfer and has received the consent of both appointing authorities concerned. (c) Former employees, who have earned permanent status and who have been separated from the service without fault or delinquency on their part, may within two years following their separation apply to the Director to have their names entered on the eligible list for re-employment in positions of the same class or grade as formerly held. The Director shall submit his recommendations to the Board whose decision shall be final. (d) No promotion, transfer, or reinstatement shall be made from a position in one class to a position in another class nor shall a person be transferred to or reinstated in a position for original entrance to which there is required by this act or the rules and regulations thereunder, an examination involving essential tests or qualifications different from or higher than those required for original entrance to the position held by such person except that such person takes and successfully passes such examinations as are prescribed by the Director and approved by the Board.

Section 27. DISMISSAL AND SUSPENSION. (a) An appointing authority may dismiss an employee whenever he considers the good of the service will be served thereby, for reasons stated in writing, served on the affected employee, and a copy furnished to the Director, which action shall become a public record. The dismissed employee may within ten days after notice, appeal from the action of the appointing authority by filing with

the Board and the appointing authority a written answer to the charges. The Board must after investigation order a public hearing and if the charges are proved unwarranted, order the reinstatement of the employee under such conditions as the Board may determine. (b) In addition to removal by an appointing authority, an employee may be removed or disciplined in the following manner. Charges may be filed by any officer, citizen or taxpayer of the State with the Director who shall within five days cause a copy to be served upon the person complained against and shall set a day not more than twenty days after such charges have been served on such employee for a public hearing of such charges. This hearing may be before the Director, a special agent appointed for the purpose by the Director, or the Board itself. If before the Director or a special agent, the Director or special agent shall take testimony offered in support and denial of such charges and from the same submit to the Board, within five days, a finding of facts and law involved and a recommended decision. The Board at its next regular or special meeting shall consider said report and modify, alter, set aside or affirm said report and certify its findings to the appointing authority who shall forthwith put the same into effect. If the Board hears said charges directly or requires the transcribing and submission of the testimony taken before the Director or special agent, it shall make up and file its own findings and decision. The decision of the Board based upon its records and the testimony shall be final. In proceedings under this section it shall be no defense or excuse for a forbidden act or for an omission to observe the laws or rules, that such act or omission was directed by a superior, unless a written direction or order from such superior to that effect is proved. (c) If any employee subject to the jurisdiction of this Act shall wilfully refuse or fail to appear before any court or judge, any legislative committee, or any officer, board or body authorized to conduct any hearing or inquiry, or having appeared shall refuse to testify or answer any question relating to the affairs of government or the conduct of any officer of employee on the ground that his testimony or answers would tend to incriminate him, or shall refuse to waive immunity from prosecution on account of any matter about which he may be asked to testify at any such hearing or inquiry, he shall forfeit his position and shall not be eligible for appointment to any position under the jurisdiction of this Act. (d) An appointing authority may, from time to time, peremptorily suspend any employee without pay or other compensation, and without the right of a hearing, as punishment for improper behavior, but such suspension or total suspension by such appointing authority of such person shall not exceed thirty days in any year of service. Such suspension with loss of pay may be effected only by service upon the employee by

the appointing authority of written charges setting out clearly the delinquency for which such suspension was made, a copy of which must be at the same time mailed or delivered to the Director. The suspended employee shall have the right to file with the Board and the appointing authority a written answer or explanation of such charges.

Section 29. CERTIFICATION OF PAYROLLS. (a) It shall be unlawful for the fiscal officer of either a county or any municipality affected by this act to draw, sign, issue or authorize the drawing, signing, or issuing of any warrant on the treasurer or other disbursing officer of either the municipality or the county for the payment of or for the treasurer or other disbursing officer to pay any salary or compensation to anyone holding any position subject to the provisions of this act unless the estimate, payroll, warrant, or account for such salary or compensation containing the name of the person to be paid shall bear the certification of the Director of Personnel, that the person or persons named in the estimate, payroll, warrant, or account are holding hereunder and are legally entitled to receive the sums stated therein. (b) Any sum paid contrary to any provision of this Act or of any rule, regulation or order thereunder may be recovered, in an action maintained in the name of the county or municipality by the County or City Attorney, or by any citizen or taxpayer of the county or municipality from any officer who made, approved or authorized such payment or who signed or countersigned a voucher, payroll, check or warrant for such payment, or from the sureties on the official bond of any such officer. All moneys recovered in any such action shall be paid into the treasury from which payment was made. The County or City Attorney or any citizen or taxpayer of the county or municipality may likewise maintain a suit to restrain a disbursing officer from making any payment in contravention of any provision of this Act, or of any rule, regulation or order thereunder. (c) Any person appointed or employed in contravention of any provision of this act or of any rule, regulation or order thereunder who performs service for which he is not paid, may maintain an action against the officer or officers who purported so to appoint or employ him to recover the agreed pay for such services, or the reasonable value thereof if no pay was agreed upon. No officer shall be reimbursed by the county or municipality at any time for any sum paid to such person on account of such services. (d) If the Director wrongfully withholds certification of the payroll voucher or account of any employee, such employee may institute a proceeding to compel the Director to certify such payroll voucher or account. (e) A thirty-day month shall be used for the purpose of calculating the pay of employees compensated on a monthly basis. (f) In order to prevent evasions

of the purpose of this act, the Board may require that payrolls for the payment of persons in the unclassified service, except officials exempted from this act, be submitted for certification in the same manner as herein provided for payrolls covering employees holding positions in the classified service. It shall be unlawful for any person to make or authorize a payment of such payroll after notice by the Board that such certification shall be required.

Section 30. **POLITICAL ACTIVITIES PROHIBITED.** (a) No person shall be appointed or promoted to, or demoted or dismissed from any position, or in any way favored or discriminated against with respect to employment because of his political or religious opinions or affiliations or his race. (b) No person shall seek or attempt to use any political endorsement in connection with any appointment to a position. (c) No person shall use or promise to use, directly, or indirectly, any official authority or influence, whether possessed or anticipated, to secure or attempt to secure for any person an appointment or advantage in appointment to a position, or an increase in pay or other advantage in employment in any such position, for the purpose of influencing the vote or political action of any person, or for any consideration. (d) No employee and no member of the Board shall, directly or indirectly, pay or promise to pay any assessment, subscription, or contribution for any political organization or purpose, or solicit or take any part in soliciting any such assessment, subscription, or contribution. No person shall solicit any such assessment, subscription, or contribution of any employee. (e) No employee shall be a member of any national, state, or local committee of a political party, or an officer of a partisan political club, or a candidate for nomination or election to any public office, or shall take any part in the management or affairs of any political party or in any political campaign, except to exercise his right as a citizen privately to express his opinion and to cast his vote. (f) Any officer or employee under the jurisdiction of this Act who violates any of the foregoing provisions of this section shall forfeit his office or position.

Section 31. **NO SALARY TO PERSONS APPOINTED IN VIOLATION OF THIS ACT.** No salary, compensation, or other emolument shall be paid to any one appointed to or retained in any position in violation of this Act.

Approved March 17, 1939.

No. 183)

(S. 68—Johnston)

AN ACT

To Amend Schedule 158.10 of Section 348, Article XIII, Chapter 6, of an Act "To provide for the General Revenue of the State of Alabama," approved July 10, 1935.

Be it Enacted by the Legislature of Alabama:

Section 1: That Schedule 158.10 of Section 348, Article XIII, Chapter 6, of an Act "To provide for the General Revenue of the State of Alabama," Approved July 10, 1935, be, and the same is hereby, amended to read as follows: "Schedule 158.10. For each motor tractor used on the highways of this State there shall be paid a license or privilege tax of one hundred dollars. Provided, however, that this license shall not be collected for a tractor when run on a highway to be transferred from one point to another for use on a farm with or without a "small trailer" or with or without a "semi-trailer," or when used on the highway for transferring what is commonly known as a "portable saw mill" or a "well-boring outfit."

Approved March 17, 1939.

No. 184)

(S. 92—Holmes)

AN ACT

To amend Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 11, 12 and 14 of An Act entitled "An Act for the protection of human beings against rabies, to require inoculation against rabies of all dogs running at large, to provide for the apprehension and disposition of dogs running at large which have not been inoculated in accordance with the provision of this Act, to provide for the confinement of bitten dogs, and dogs that have bitten human beings, to provide a means of enforcement of the provisions of this Act, the appointment of a Rabies Inspector, to fix fees for inoculation of dogs, and to fix penalties for the violation of the provisions hereof," Approved March 2, 1937.

Be it Enacted by the Legislature of Alabama:

Section 1. That Section 1 of the Act to which this Act is an amendment is hereby amended to read as follows: Section 1. TERMS DEFINED. Whenever used in this Act, unless a contrary intention is clearly evident, the following terms shall be interpreted as herein defined: (a) The term "dog" shall mean and include all members of the canine family, three months or more of age, and also pet foxes, wolves, etc. (b) The term "person" shall mean and include individuals, firms, partnerships, and associations; the singular shall include the plural; and the masculine, the feminine and neuter. (c) The term "owner" shall mean and include

any person having a right of property in the dog, or who keeps or harbors a dog, or who has it in its care, or acts as its custodian, or who permits a dog to remain on or about any premises occupied by him. (d) The term "inoculation against rabies" shall mean the injection, subcutaneously or otherwise as approved by the State Health Officer and the State Veterinarian, of canine antirabies vaccine, approved by the State Health Officer and the State Veterinarian.

Section 2. That Section 2 of the Act to which this Act is an amendment is hereby amended to read as follows: Section 2. ENFORCEMENT PROVISION. For the purpose of providing proper enforcement of the provisions of this Act, each County Board of Health is hereby invested with general supervisory powers; and it shall be its duty, with the approval of the State Health Officer and the State Veterinarian, to appoint, on the passage and approval of this Act, and annually thereafter within the first fifteen days of January, a competent veterinarian, or other person properly qualified, who shall be known as Rabies Inspector, and whose term of office shall end on December 31 of the year of appointment; provided however, that he shall be eligible for reappointment. Such inspector may select as many deputies to aid him in the enforcement of this Act as he may desire. It shall be the duty of the said Inspector, under the direction of the County Board of Health, to enforce the provisions of this Act, and it shall be his duty to inoculate dogs or have the work done by his deputies; and, for the full enforcement of the provisions of this Act, the said Rabies Inspector and his deputies are clothed with full police power; and the sheriff and his deputies in each county and the police officers in each incorporated municipality shall be aids, and are instructed to cooperate with said Inspector in carrying out the provisions of this Act. The compensation of the Inspector and his deputies shall be limited to the fees prescribed in succeeding sections of this Act. The said Rabies Inspector may be removed from office, for cause, by the County Board of Health.

Section 3. That Section 3 of the Act to which this Act is an Amendment is hereby amended to read as follows: Section 3. INOCULATION OF DOGS REQUIRED. Prior to September 1 of each year, every owner of a dog, not confined at all times to an enclosed area, or on a leash, or muzzled, shall cause such dog to be inoculated against rabies by the Rabies Inspector or a competent Veterinarian. Evidence of such inoculation shall consist of a printed certificate furnished in triplicate by the State Board of Health, upon which shall be inscribed a description of the dog inoculated, its age, color, sex, weight, and breed; the name and address of the owner; the lot or ampule number of the vaccine used and the name of the manufacturer; and the amount of vaccine injected and the method of injecting; which certificate shall be dated and signed by

the person authorized to administer the vaccine. Certificates not in keeping with the provisions of this section, or issued by those unauthorized to issue them, shall not be valid. The original copy of the certificate prescribed herein shall be delivered to the owner of the dog inoculated, and the other two copies shall be delivered to the County Health Officer before the tenth of each month, one of which shall be transmitted by him to the State Board of Health by the fifteenth of the same month. Provided, however, that the provisions of this section shall not be applicable in the case of any dog inoculated not more than six months prior to the passage of this Act, the proper certificate of which inoculation shall be presented to the Rabies Inspector; nor shall the right be denied physicians to inoculate their privately owned dogs, provided they report such inoculations, as required by this Act.

Section 4. That Section 4 of the Act to which this Act is an Amendment is hereby amended to read as follows: Section 4. DOGS TO WEAR TAGS. Coincident with the issuance of the certificate of inoculation, as prescribed in the preceding section, the Rabies Inspector or other person authorized to furnish the certificate shall also furnish a serially numbered tag bearing the same number and year as the certificate bears, which tag shall at all times be attached to a collar or harness worn by the dog for which the certificate and tag have been issued.

Section 5. That Section 5 of the Act to which this Act is an Amendment is hereby amended to read as follows: Section 5. LOST TAGS. In the case of the loss of the tag from any dog to which the same has been legally issued, every replacement thereof shall be upon such terms as may be agreed upon with the Rabies Inspector, or Veterinarian by whom the dog was inoculated, and on presentation of the certificate covering the tag originally issued and lost. In such instance, a new certificate, marked duplicate, shall be issued, setting forth the number of the new tag, copies thereof to be transmitted to the County Health Officer as set forth in Section 3 of this Act.

Section 6. FEES. It is hereby provided that the Rabies Inspector, or other person authorized to inoculate dogs against rabies, may charge for such services a sum not to exceed 50 cents for each dog treated for Rabies. The Rabies Inspector shall keep a record of all dogs inoculated on forms furnished by the State Board of Health.

Section 7. That Section 7 of the Act to which this Act is an Amendment is hereby amended to read as follows: Section 7. PENALTIES. On and after September 1 of each year, any dog found running at large and not wearing the evidence of inoculation as provided herein, and for which no certificate of inoculation can be produced and which is apprehended by any officer or other person charged with the enforcement of this Act, shall forthwith be sub-

ject to a penalty of fifty cents (50c), to be imposed by the Rabies Inspector on the owner of the dog, in addition to the fee heretofore prescribed for inoculation. The said penalty, when collected, shall accrue to the person making the apprehension.

Section 8. That Section 8 of the Act to which this Act is An Amendment is hereby amended to read as follows: Section 8. **IMPOUNDING OF UNLICENSED DOGS.** It shall be the duty of each and every County in the State, and of every municipality over 5,000 in which the county pound is not located, to provide a suitable enclosure for the impounding of all dogs found running at large in violation of the provisions of this Act. Where dogs are impounded, the Rabies Inspector shall, in some form or manner, give a notice of not less than seven (7) days; and, if the owner thereof is known, such owner shall be given direct notice of the impounding of a dog or dogs belonging to him.

Section 9. That Section 9 of the Act to which this Act is An Amendment is hereby amended to read as follows: Section 9. **DISPOSITION OF DOGS PRESCRIBED.** All dogs which have been impounded for failure to be inoculated in accordance with the provisions of this Act, due notice of which impounding shall have been given as provided in the preceding section, shall be humanely dispatched and disposed of when not redeemed by the owner within seven (7) days. Where there exists a humane society in any city of the State where the provisions of this Act are applicable, said humane society shall have the privilege of dispatching all unredeemed dogs, should it so elect. In case the owner of any impounded dog desires to make redemption thereof, he may do so on the following conditions: He must pay for the inoculation of the dog, for the board of the dog for the period for which it was impounded, and fifty cents (50c) in addition as a penalty, as prescribed in Section 7. The said Rabies Inspector may, at his discretion, sell any dog, not redeemed or claimed or otherwise disposed of, to any purchaser desiring the said dog, which said purchaser must comply with all the provisions of this Act.

Section 10. That Section 11 of the Act to which this Act is an Amendment is hereby amended to read as follows: Section 11. **CONFINEMENT OF DOGS WHICH HAVE BITTEN HUMAN BEINGS AUTHORIZED.** Whenever the County Health Officer, the County Quarantine Officer, or Rabies Inspector shall receive information that any person has been bitten by a dog, the said County Health Officer, County Quarantine Officer or Rabies Inspector shall be required to have the said dog confined for a period of fourteen (14) days. And it shall be unlawful for any person having knowledge that any person has been bitten by a dog to refuse to notify promptly one or more of the officers mentioned in this section. It shall be unlawful for the owner of such dog to refuse or fail to comply with the written recommendations

made by the County Health Officer, or County Quarantine Officer or Rabies Inspector, in any particular case, and any expense incurred in the handling of any dog, under this and the preceding section, shall be borne by the owner.

Section 11. That Section 12 of the Act to which this Act is An Amendment is hereby amended to read as follows: Section 12. GENERAL PROVISIONS. Any person violating or aiding in or abetting the violation of any provision of this Act, or counterfeiting or forging any certificate, permit, or tag; or making any misrepresentation in regard to any matter prescribed by this Act; or resisting, obstructing, or impeding any authorized officer in enforcing this Act; or refusing to produce, for inoculation, any dog in his possession, not confined at all times to an enclosed area, or on leash, or muzzled, shall be guilty of a misdemeanor and, upon conviction, shall be fined not less than one nor more than ten dollars, and, for the purpose of enforcing this section, any court of competent jurisdiction, including Justice of the Peace Courts shall have jurisdiction in such offenses.

Section 12. That Section 14 of the Act to which this Act is an Amendment is hereby amended to read as follows: Section 14. Nothing in this Act shall be held to limit in any manner the power of any municipality to prohibit dogs from running at large, whether or not they have been inoculated as herein provided; nor shall anything in this Act be construed to, in any manner, limit the power of any municipality to further control and regulate dogs in such municipality.

Approved March 17, 1939.

No. 185)

(S. 109—Tucker

AN ACT

To conserve all flowering trees, bushes, shrubs, and plants domesticated, native or wild, and to make it a misdemeanor for any person other than the owner or person in possession of the land whereon the same are situated, to wilfully cut, break or remove any flowers therefrom, or to wilfully remove, cut, break, or injure any such tree, bush, shrub, or plant or to wilfully transport or aid, or abet the transportation of, or the cutting, breaking, injuring or removing of any such tree, bush, shrub, plant or flower therefrom without the consent of the owner or person in possession of the land upon which such tree, bush, shrub, or plant is situated.

Be it Enacted by the Legislature of Alabama:

Section 1. That in order to protect all native, wild or domesticated trees, bushes, shrubs and plants from destruction, and to conserve the same, it is hereby made unlawful and a misdemeanor for any person other than the owner, or person in possession of the

land upon which any such tree, bush, shrub, or plant is situated, without the consent of the owner or person in possession of such land, to wilfully cut or break, or remove any flower or flowers from any such tree, bush, shrub or plant.

Section 2. It is hereby made unlawful and a misdemeanor for any person, other than the owner or person in possession of the land upon which any such tree, bush, shrub, or plant is situated, without the consent of the owner, or person in possession of such land, to wilfully remove, destroy, cut, break, or injure any such tree, bush, shrub or plant.

Section 3. It is hereby made unlawful and a misdemeanor for any person to wilfully aid, or abet a violation of any provision of this Act.

Section 4. Any person who, upon trial, is adjudged guilty of the violation of the provisions of either Section One, or Section Two, or Section Three, of this Act, shall upon conviction, be fined not more than Fifty (\$50.00) Dollars.

Section 5. An arrest may be made of any person violating the provisions of this Act, by any officer authorized by law to make arrests, under a warrant sworn out under the provisions of law, or if the offense is committed in the presence of the officer, the officer is authorized to make an arrest without warrant.

Section 6. It shall be the duty of a judge organizing and empaneling a Grand Jury if the Judge is of the opinion that it is necessary, to the end of conserving the flowering trees, bushes, shrubs, and plants sought to be conserved by the provisions of this Act, to give in special charge to the Grand Jury, the law under the provisions of this Act.

Section 7. That if any section, clause, provision or portion of this Act shall be held to be invalid, or unconstitutional by any court of competent jurisdiction, such holding shall not affect any other section, clause, provision or portion of this Act, which is not of itself, unconstitutional.

Section 8. This act shall go into effect immediately upon its passage and approval of the Governor.

Approved March 17, 1939.

No. 186)

AN ACT

(S. 129—Tucker

To regulate school warrants, school finances, and school tax elections, to validate certain school warrants and certain school tax elections, and to repeal laws in conflict therewith.

Be it Enacted by the Legislature of Alabama:

"Section 1. PURPOSES FOR WHICH WARRANTS ISSUED.—In any county in which a special county tax shall have

been voted under the Constitution for such purpose or for school purposes generally, and in any school district in which a special district tax shall have been voted under the Constitution for such purpose or for school purposes generally, the county board of education or the city board of education, as the case may be, with the approval of the State Superintendent of Education may (1) issue and sell capital outlay warrants for the purposes of erecting, purchasing, altering, enlarging, improving, repairing, and equipping school buildings and school playgrounds, and buildings for housing and repairing school busses, including sites for any such buildings and playgrounds; and for the purpose of purchasing school busses; and for the purpose of acquiring a school building already erected by another government body, which building is being transferred to the use and jurisdiction of the board issuing the warrants; or for any one or more of such purposes; (2) issue and sell or exchange refunding warrants in an amount not in excess of the principal amount of the warrants being refunded for the purpose of refunding any valid warrants heretofore or hereafter issued and constituting a preferred claim against the said tax, or, in the case of refunding warrants payable from the tax of a special school district which consists of a consolidation of two or more smaller special school districts, constituting a preferred claim against the tax of any of such smaller districts, provided that such warrants being refunded hereunder are payable not later than six months after the date of the refunding warrants, or are subject to call for payment within that period, or are cancelled simultaneously with the issuance of the refunding warrants; (3) issue and sell funding warrants for the purpose of paying any obligation or indebtedness incurred under the provisions of Section 22 of this act, including interest thereon. Proceedings authorizing the issuance of refunding warrants under the provisions of this act shall identify the warrants being refunded, but no purchaser or holder of any such refunding warrant shall thereby be put upon inquiry or charged with notice of the non-existence or invalidity of such refunded warrants, and the validity of such refunding warrants shall not be affected thereby. Warrants shall never be issued hereunder to an amount of principal and interest maturing in any fiscal year which, when added to the amount of principal and interest of all warrants then outstanding and constituting preferred claims against the said tax and maturing in said fiscal year, would exceed 80 per cent of the annual proceeds of said tax, computed upon the basis of the last assessed valuation on which taxes were due and payable, of the County or of the district, as the case may be, as certified by the county tax assessor."

Section 2. PREFERENCE AND PAYMENT OF WARRANTS AND CARE OF FUND. All warrants issued hereunder

shall be payable solely from the proceeds of the special tax in respect of which they were issued, but this shall not prohibit their payment from any other funds which may be available therefor under any other provision of law, provided, however, that in no event shall such warrants be payable from such other funds if the effect thereof would be to subject such warrants to any Constitutional debt limit or to any Constitutional requirement that they be authorized by vote of the qualified voters. All warrants issued hereunder shall be preferred claims against the said tax as herein provided. All valid pledges of the said tax heretofore made, whether made to secure warrants or otherwise, shall remain valid and effective, and successive pledges so made of the same tax shall remain entitled as between each other to preference in the order in which they were made. All warrants issued hereunder, whether capital outlay, refunding, or funding, and including warrants hereafter issued under Act No. 94, approved April 6, 1936, pursuant to the proviso in Section 25 hereof, shall be secured by pledge of the entire net proceeds of the said tax, subordinate to all pledges thereof heretofore or hereafter made before the issue of the said warrants, but superior to all pledges thereof made after the issue of the said warrants, provided that all warrants hereafter authorized hereunder by the board of education at one session but delivered at different times shall as against other warrants have preference as of the date when the first delivery of such warrants was made and as between each other shall be of equal rank. All warrants issued hereunder, as well as all valid pledges of the said tax heretofore made, shall have preference over claims for salaries or other operating expenses or any other purpose. In each fiscal year the proceeds of the said tax shall be deposited as soon as received by the custodian of school funds or the city treasurer, as the case may be, in a bank approved for that purpose by the State Superintendent of Education upon the advice of the State Superintendent of Banks or other chief state officer having supervision over banking matters, in a separate account to an amount sufficient for the payment of all claims secured by a valid pledge of the said tax and due in that fiscal year, including the principal and interest of all warrants issued hereunder due in that fiscal year or due in any prior year and remaining unpaid with six per cent interest on such overdue claims. After such amount has been so deposited the balance of the proceeds of the said tax may be used for any proper purpose without regard to the said pledges or warrants. Such deposit shall be held as a trust fund for the payment of the claims for which it was established and shall be applied to the payment of all such claims as they become due, provided that no such claim shall be paid therefrom unless after such payment sufficient funds will remain

in said deposit to pay all such claims which are secured by a pledge of the said tax superior to the pledge securing the claim to which such payment is to be applied, and such deposit shall be applied to no other purpose until all such claims are satisfied. Any custodian, treasurer, superintendent of education, member of a board of education, or other officer who shall by vote or in any other manner cause, aid, or encourage any diversion of any such deposit to any other purpose or any misappropriation thereof whereby loss or injury to the owner or holder of any such claim is caused shall be jointly and severally liable, both personally and upon his official bond, if bonded, to such owner or holder to the extent of such loss or injury, including attorneys' fees and other collection costs. Any failure to make such deposit as required by this section or to apply the same as herein provided shall be construed as a diversion or a misappropriation, and any owner or holder of any claim then or at any time in the future payable from such fund may at any time enter suit in any court of competent jurisdiction against the official responsible therefor and the surety upon his official bond, if bonded, both to recover for any loss or injury thereby sustained and to compel the observance of these provisions in the future.

Section 3. **ISSUE TO BE APPROVED BY STATE SUPERINTENDENT OF EDUCATION IN ACCORDANCE WITH RULES AND REGULATIONS OF STATE BOARD OF EDUCATION.** Before issuing any warrants hereunder the county board of education or the city board of education, as the case may be, shall cause an application for approval of such issue to be filed with the State Superintendent of Education. Such application shall be in such form and shall contain such information as the State Superintendent of Education may prescribe and he may require such further information as may be necessary relating to the proposed warrants or other financial or educational matters under the control of such board of education. He shall not approve the issue of any warrants which would jeopardize the minimum state program of education as prescribed by law and in accordance with the rules and regulations of the State Board of Education. He shall not approve the issue of any warrants hereunder when the principal or interest of any other warrants constituting a preferred claim against the same tax is overdue and unpaid, except warrants to refund the same. The written approval of the State Superintendent of Education of the amount and general purpose of the warrants shall be a sufficient approval of the issue, but he may at his discretion approve any of the terms and provisions of the warrants which in such event shall not be issued otherwise. He shall not approve the issuance of any refunding warrants unless evidence presented to him in his

judgment shows (a) that an interest saving will thereby be affected without extending the date of payment of the warrants desired to be refunded, or (b) that the payment of warrants desired to be refunded will prevent the issuing board from operating schools the customary term in their jurisdiction, or (c) that the extension of time of payment of the warrants desired to be refunded is necessary to prevent the State's minimum program from being jeopardized, or (d) that the proceeds of the tax pledged to the payment of the warrants to be refunded are not or will not be sufficient for the payment of principal and interest on such warrants. The State Superintendent's approval of the issue of any warrants hereunder shall be a conclusive determination that all necessary evidence has been presented to him. The written approval of the State Superintendent of Education of the issue of any warrants hereunder shall be a conclusive determination in favor of the validity of such warrants that all of the requirements of this Act have been complied with. The State Superintendent of Education may also determine conclusively for all purposes relating to the validity of any warrants issued hereunder whether any other warrants constitute a preferred claim against the same tax. In all matters connected with his approval of warrants the State Superintendent of Education shall comply with any regulations or instructions of the State Board of Education, but his failure to do so shall not affect the validity of warrants approved by him.

Section 4. MATURITY OF WARRANTS. Capital outlay warrants issued hereunder shall be payable within the period of usefulness of the improvement or property for which the warrants are issued as estimated by the county or city board of education, which estimate shall be conclusive. In no event shall any warrant issued hereunder be made payable on or after the October 1 upon which the special tax pledged for the payment of the warrants last becomes due and payable. All warrants issued hereunder shall be made payable in substantially equal annual instalments of principal and interest beginning in the next fiscal year after their date, provided that if other warrants issued hereunder or any other law shall be then outstanding constituting a preferred claim against the same tax, all or any part of the maturities of such outstanding warrants may be taken together with the maturities of the new warrants to provide substantially equal instalments of principal and interest, and provided further that the requirements contained in this sentence shall be directory only and shall not affect the validity of any warrants issued under this Act.

Section 5. CALL OF WARRANTS. All warrants issued hereunder may contain such provisions for their call for payment at such time or times before maturity and at such premium, if any, as the issuing board may prescribe, provided no such privilege of call

for prior payments as to either time or premium shall be reserved as would cause the warrant to yield more than six per cent per annum according to standard bond tables if such privilege were exercised. Notice of such call shall be given by publication at least once, at least thirty days, before the payment date, in a newspaper published or circulated in the county and also in a daily newspaper published in Montgomery or Birmingham.

Section 6. **INTEREST RATE.** All warrants assued hereunder shall bear interest at not exceeding six per cent per annum payable semi-annually, provided the first interest payment date may be any time not later than nine months after the date of issue. If the principal or interest of any warrant issued heretofore or hereunder shall not be paid when due, the same shall bear interest thereafter at six per cen per annum until paid, provided that at any time after such principal or interest shall have become overdue, the board of education may give notice of its intention to pay the same in whole or in part with interest at a specified time and place by publication at least once at least ten days before the date fixed for such payment in a newspaper published or circulated in the county and also in a daily newspaper published in Montgomery or Birmingham. Upon such notice being duly given and money to make such payment being duly provided, interest on such overdue principal or interest or the part thereof so provided for shall cease.

Section 7. **PLACE AND METHOD OF PAYMENT.** All warrants issued hereunder may be made payable as to principal and interest at such bank within or without the State of Alabama as the issuing Board of education may designate. The county or city superintendent of education and the custodian or treasurer of school funds, as the case may be, shall deposit sufficient funds in such bank designated by the issuing board, as the bank at which its warrants are payable to meet all maturing instalments of principal of and interest on its warrants promptly as the same fall due. The amounts due on principal and interest of school warrants issued heretofore and hereunder shall be remitted by said banks at par, including any premium due on called warrants, and without the deduction of exchange, handling, or collection costs from the amount due the holders of said warrants. For the service performed in acting as the paying agent of the board of education and as reimbursement for expenses incurred in remitting such payments, boards of education may pay fees of such banks not exceeding one-tenth of one per cent of the principal amount of such warrants paid and not exceeding one-fourth of one per cent of the face amount of any coupons paid.

Section 8. **SALE OF WARRANTS.** All warrants issued hereunder shall be sold to the highest bidder at public sale unless

sold at a better price within thirty days after failure to receive any acceptable bid at a duly advertised public sale in accordance with this section. A public sale shall be either on sealed bids or at auction. Bidders may be invited to name the rate of interest which the warrants are to bear or the board of education may name rates of interest and invite bids thereon. The notice of a public sale shall state whether the sale is to be on sealed bids or at auction and shall also state the amount of the warrants to be sold, the maturities thereof, whether county or district tax is to be pledged, the amount payable at each maturity and either the rate or rates of interest which the warrants are to bear or that the bidders are invited to name the rate of interest and shall also state the time and place of the meeting of the board of education at which bids are to be received and the amount of the certified check required to be deposited. Such notice shall be published once in each of two consecutive weeks in a newspaper published in the county within which the warrants are being issued, and if there should be no such newspaper the notice shall be published in a daily newspaper published in Montgomery or Birmingham. The first of such two publications shall be not less than ten days before date of sale. The board of education shall have the right to reject all bids. In the marketing of said warrants said board shall be entitled to have such assistance as can be rendered by the Governor, the State Treasurer, the Director of Finance, the State Superintendent of Education, or any other appropriate state officer or agency. In determining the highest bidder for warrants offered for sale the net interest cost to the board of education as shown in standard bond tables shall govern, provided the determination of the board of education as to the highest bidder shall be final. Bidders shall be required to submit a certified check of not less than two per cent of the principal amount of warrants offered for sale.

Section 9. SALES AT PAR OR LESS. Warrants bearing six per cent interest and warrants subject to a call privilege which if exercised would yield six per cent according to standard bond tables shall not be sold for less than par and accrued interest. Other warrants may be sold at less than par, provided they shall not be sold at a price which would yield more than six per cent according to standard bond tables taking into account the discount and the call privilege, if any.

Section 10. EXCHANGE AND DELIVERY OF REFUNDING WARRANTS. Notwithstanding the provisions of the two preceding sections, refunding warrants issued hereunder may without advertisement be exchanged for a like amount of the warrants being refunded. If part of an authorized issue is so exchanged, the officers authorized to effect such exchange may select from the total authorized issue the particular refunding warrants to be so

delivered and the maturities of the refunding warrants at any time outstanding need not meet the requirements of this act as to equal annual instalments of principal and interest. Refunding warrants may be delivered to a bank designated by the issuing board to be held in escrow pending delivery pursuant to an order of the issuing board for the delivery or exchange of such refunding warrants, all or any part of which warrants held in escrow may be issued and sold or exchanged as other refunding warrants issued under the terms of this act.

Section 11. FORM OF WARRANTS. The following form of warrant shall be valid and sufficient for warrants issued hereunder, but any other appropriate form may be used: No. _____ \$ _____ State of Alabama County (City) Board of Education of the County (City) of _____ County, (City, District No. _____) Capital Outlay (Funding, Refunding) School Warrant. The County (City) Board of Education of the County (City) of _____, Alabama, is indebted to bearer in the sum of _____ Dollars and hereby directs the custodian (treasurer) of the public school funds of the County (City) to pay to bearer the said sum on _____, 19____, with interest meanwhile at the rate of _____ per cent per annum payable semi-annually to the bearer of the respective coupons therefor hereto attached, both principal and interest being payable at _____ from the proceeds of a special tax of thirty cents on each one hundred dollars of taxable property in the said County (in the said City, in School District No. _____ of the said County) duly authorized to be levied and collected each year until the maturity thereof. This warrant is issued pursuant to Act No. _____, approved _____, 19____, and is a preferred claim against the proceeds of the said tax as therein provided. It is hereby certified that every requirement of the Constitution or Laws of the State of Alabama relating to the issue hereof or to the authorization of the said tax has been duly complied with and that this warrant is within every limit prescribed thereby. In Witness Whereof the said County (City) Board of Education has caused this warrant to be signed in its name by its President and its seal to be hereunto affixed and attested by its Secretary, and the attached coupons to be executed with the facsimile (manual) signature of the said President. Dated _____, 19____ County (City) Board of Education of _____ By: _____ President Seal Attest: _____ Secretary (Coupon) No. _____ \$ _____ On _____, 19____, the County (City) Board of Education of the County (City) of _____, Alabama, will be indebted to bearer in the sum of _____ Dollars and hereby directs the custodian of the public school funds of the County (City treasurer) to pay

to bearer at _____, the said sum at that time from the proceeds of a certain special tax as provided in and as interest on its County (City, District No. _____) Capital Outlay (Funding, Refunding) Warrant No. _____, dated _____ 19____. County (City) Board of Education of _____ By: _____ President. If such warrants are subject to call for payment before maturity the words "unless the said warrants shall have been duly called for earlier payment and payment duly provided therefor" may be added to the coupons and the following paragraph inserted in the warrants: The said County (City) Board of Education reserves the right to call this warrant for payment at _____ and accrued interest upon any interest payment date (or any other appropriate statement as to the time of redemption as prescribed by the issuing board). Notice of such call shall be published at least once at least thirty days before such payment date in a newspaper published or circulated in the county and also in a daily newspaper published in Montgomery or Birmingham. Such notice having been given and such payment having been duly provided, this warrant shall cease to bear interest upon such payment date.

Section 12. EXECUTION OF WARRANTS. All warrants issued hereunder shall be executed in the name of the issuing county or city board of education, as the case may be, by the president of such board, shall be sealed with the seal of such board and attested by the secretary of the board. Coupons attached to such warrants shall be executed with either the manual or the facsimile signature of the president of such board. All warrants and coupons attached thereto issued hereunder bearing the signatures of officers in office on the date of the signing thereof shall be valid and binding obligations notwithstanding that before the delivery and payment thereof such officers whose signatures appear thereon shall have ceased to be officers of such board.

Section 13. PAYMENT OF INCIDENTAL COSTS. The board of education issuing any warrants hereunder may pay the cost of printing the warrants, the cost of advertising the sale, the attorneys' fees for preparing proceedings, the attorneys' fees for furnishing an opinion as to legality acceptable to the purchaser and other expenses incidental to the issue of the warrants, but only the actual cost thereof shall be paid and all such payments shall be made to those actually rendering such services and not to the purchaser of the warrants, in a lump sum or otherwise, provided the board of education may employ any bank or banks and person or persons to assist in making arrangements relating to the issue of refunding warrants hereunder and the sale or exchange thereof and may pay them for such services subject to the approval of the State Superintendent of Education. This section shall not authorize the payment of a commission or other compensation for procuring a

purchaser of funding or capital outlay warrants issued hereunder.

Section 14. **VALIDITY OF WARRANTS.** Warrants reciting that they are issued pursuant to the terms of this act shall in any action or proceeding involving their validity be conclusively deemed to be fully authorized thereby and to have been issued, sold, executed, and delivered in conformity therewith and with all other provisions of law applicable thereto and shall be incontestable, anything herein or in other statutes to the contrary notwithstanding, unless such action or proceeding is begun before or within thirty days after the day upon which the warrants are delivered and paid for, and no irregularity in the proceedings to authorize the issue of warrants hereunder nor the omission or neglect of any officer charged with the execution of any duties imposed by this act shall affect the validity of any warrants issued hereunder, provided the issuance of such warrants shall have been approved by the State Superintendent of Education.

Section 15. **EXEMPTION FROM TAXATION.** All warrants and interest coupons attached to the same issued hereunder shall be exempt from state, county, and municipal taxation.

Section 16. **WARRANTS MAY BE VALIDATED.** All school warrants authorized by this act may in the discretion of the board of education be validated in a proceeding in accordance with No. 196 of the General Acts of 1935, approved July 17, 1935 (Acts 1935, p. 582), as the same may be amended from time to time, or any similar proceedings prescribed by law, but such proceedings shall not be essential to the validity of such warrants.

Section 17. **RECORD OF WARRANTS.** The county board of education or the city board of education, as the case may be, shall keep in its minutes a complete record of all warrants issued under the provisions of this act, which record shall show upon what authority the warrants are issued, the amounts in which issued, the persons to whom issued, the dates of issue, the purpose or purposes for which issued, the rate of interest to be paid, and the time and place of payment of each installment of principal and interest. It shall be the duty of the Superintendent of Education to prepare in duplicate on the first day of October in each year, and whenever additional warrants are issued, a record showing all of the information required by this section as to all warrants then outstanding and he shall deliver one copy of each such record to the Custodian of County School Funds or the Treasurer of the City School Funds, as the case may be.

Section 18. **EXCLUSIVENESS OF THIS ARTICLE.** No warrants payable in any fiscal year later than the fiscal year in which they were issued shall be issued after the effective date of this act, except in accordance with the provisions of this act.

Section 19. **FISCAL YEAR.** The fiscal year of every board

of education shall begin October 1 and end September 30.

Section 20. ELECTIONS. Elections for the purpose of voting special taxes for any school purposes or for school purposes generally under the Constitution may be held at any time in accordance with law for one or more of the following purposes: (1) voting such tax where no such tax is being levied, (2) voting such tax for a period additional to the period for which the tax then being levied has been voted, (3) voting an additional rate of such tax where such tax has been voted at a rate less than the limit permitted by the Constitution, (4) voting such tax for a different purpose from that for which the tax has already been voted and beginning with the fiscal year after such election, the purpose of the new election shall govern, provided the change of purpose for which a tax is voted shall not deprive the holders of outstanding warrants of their rights, or (5) voting such tax for the purpose of consolidation or enlargement of special tax districts, provided that the holders of outstanding warrants shall not be deprived of their rights. No election for the voting of the tax shall be held which would authorize the tax for a period or aggregate periods which would cause the tax to become due and payable later than thirty years from the October first next after such election. All warrants heretofore or hereafter issued as preferred claims against a special tax under the Constitution shall continue such claims against such tax until paid, whether such tax was voted at one time or from time to time and whether such tax was voted at the time the warrants were issued or thereafter.

Section 21. OUTSTANDING WARRANTS VALIDATED. All outstanding school warrants issued by any board of education and purporting to be a preferred claim against the proceeds of a special county school tax under Article XIX of the Constitution or purporting to be a preferred claim against a special district school tax under constitutional authority, and all outstanding warrants issued by city boards of education purporting to be a preferred claim against a special city school tax under constitutional authority are hereby validated and declared to be valid and effective school warrants according to their terms, provided that if any outstanding warrants purport to be a preferred claim against a district school tax and in the event of the insufficiency of such tax then against the county school tax, they are hereby validated as preferred claims against the district school tax only, provided further that this section shall not apply to any warrants now in litigation or which have heretofore been held invalid by any court of competent jurisdiction and provided further that such warrants issued after April 6, 1936, shall be hereby validated only if the issue thereof has been approved by the State Superintendent of Education.

"Section 22. INDEBTEDNESS FOR THE PAYMENT OF CURRENT EXPENSES. The provisions of Act No. 300, General Laws of Alabama, approved September 2, 1935, to the contrary notwithstanding, any county or city board of education may, during the fiscal year beginning October 1, 1938, and ending September 30, 1939, or the fiscal year beginning October 1, 1939, and ending September 30, 1940, if and at such time or times as there shall not be sufficient funds available to pay the current operating expenses of such board of education for either of such fiscal years, incur obligations or borrow money to an amount not exceeding in the aggregate for both of said fiscal years 20 per cent of the current expenditures of such board of education during the fiscal year beginning October 1, 1937, and ending September 30, 1938, for the purpose of securing credit for or of paying the current operating expenses for either of such fiscal years; but no such board of education shall borrow any money or incur any obligation for such purpose except to the extent that, under the provisions and within the limitations of Section 1 of this act, such board of education could issue funding warrants maturing on or after February 1, 1941, and payable from the county school tax (if a county board of education) or the city district school tax (if a city board of education) voted under the authority of Article XIX of the Constitution, for the purpose of paying such obligations or indebtedness plus interest thereon, if any, to October 1, 1940; and no such board of education shall borrow any money or incur any obligation for any such purpose without the prior written approval of the State Superintendent of Education. After a board of education shall have incurred any obligation or indebtedness under the provisions of this section, the State Superintendent of Education is hereby directed to refuse approval of any warrants proposed to be issued by such board under the provisions of this Act, or any other act, if the issuance thereof would prevent the funding under the provisions and within the limitations of Section 1 of this act of any obligations incurred under the authority of this Section. The determination of the State Superintendent of Education as to the validity of any obligation or indebtedness incurred under the provisions of this Section shall be conclusive insofar as the validity of any funding warrants issued under the provisions of this act for the purpose of paying such obligation or indebtedness is concerned. The authority to incur obligations or to borrow money contained in this Section is an additional and alternative authority and it shall expire and become inoperative on October 1, 1940."

Section 23. ELECTIONS VALIDATED. All elections whether in school districts or in counties which have heretofore been held under the provisions of Article 13 of the Alabama School Code or any other law, for the purpose of authorizing a special tax

for any school purpose or for school purposes generally under the Constitution, which said election resulted in a majority of the votes cast being in favor of the said tax and which said elections were irregular by reason of failure prior to the actual holding of the election to give notice thereof in a newspaper or by reason of any other irregularity, be and the same are hereby ratified and confirmed and given effect in all respects as if all provisions of law relating to such election had been duly and legally complied with and the said tax may be levied and collected accordingly, provided that the provisions of this section shall not apply to elections now in litigation or which have heretofore been held invalid by any court of competent jurisdiction.

Section 24. CONSTITUTIONALITY. If any part of this act shall be unconstitutional the rest shall stand.

Section 25. REPEAL. Act No. 111, approved February 18, 1937; Act No. 11, approved January 12, 1937; Act No. 94, approved April 6, 1936; Sections 1, 2, and 3 of Act No. 59, approved February 4, 1937; excepting the validating provisions of the said acts; and all laws and parts of laws, general or local, inconsistent with the provisions of this act are hereby repealed, provided that Act No. 94, approved April 6, 1936, shall remain in full force and effect for sixty days after the effective date of this act and until the lapse of such period shall provide an alternative authority for the issuance of warrants by county and city boards of education. Any warrants heretofore delivered in escrow under the provisions of Act No. 111, approved February 18, 1937, shall remain valid and may be sold and delivered or exchanged at any time hereafter in accordance with the provisions of said act and shall be preferred claims against the tax as provided in that act.

Section 26. TAKING EFFECT. This act shall take effect and become operative immediately upon its passage and approval by the Governor or its otherwise becoming a law.

Approved March 15, 1939.

No. 189)

(H. J. R. 58—Barchard

HOUSE JOINT RESOLUTION

Petitioning the Congress of the United States to authorize the grant of public lands and improvements to the State of Alabama as part of its Park System and Wild life reservation.

WHEREAS: The United States owns certain lands, with the improvements thereon, within the boundaries of the Fort Morgan Reservation, and

WHEREAS: Such lands and improvements are no longer used for military purposes, but could be used by the State of Ala-

bama as a part of its Public Park System and wild game reservations; THEREFORE

BE IT RESOLVED, by the House of Representatives, the Senate concurring, that the Congress of the United States is hereby respectfully petitioned to authorize the grant of such public lands and improvements and salvage to the State of Alabama as a part of its Park System and wild life reservations, provided that the United States shall have the perpetual right to use such property for military purposes in case of any emergency.

BE IT FURTHER RESOLVED, that a copy of this Resolution be sent to: President of the United States; Hon. John H. Bankhead, U. S. Senator, Hon. Lister Hill, U. S. Senator; Hon. Frank W. Boykin, Hon. George Grant, Hon. Henry B. Steagall, Hon. Sam F. Hobbs, Hon. Joe Starnes, Hon. P. B. Jarman, Hon. W. B. Bankhead, Hon. John J. Sparkman, and Hon. Luther Patrick, Congressmen.

Approved March 17, 1939.

No. 190)

(H. 115—Welch

AN ACT

To provide that as to third parties without actual notice or knowledge to the contrary the indebtedness secured by recorded mortgages, and reservation of vendor's liens, either in deed of conveyance, or note, or bond, or contract of purchase, covering real estate shall be conclusively presumed to be paid twenty (20) years after the final maturity of the indebtedness, unless the mortgagee, or lienec, or owner of the debt has made a notation in writing upon the record of the mortgage or vendor's lien, or filed for record in the Probate Court where such mortgage, or vendor's lien is recorded, a separate written instrument showing some payment made upon the debt within the twenty (20) years last past.

Be it Enacted by the Legislature of Alabama:

Section One: That as to third parties without actual notice or knowledge to the contrary, the indebtedness secured by any recorded mortgage, or reservation of vendor's lien, either in deed of conveyance, or note, or bond, or contract of purchase covering real estate twenty (20) years past due according to the original maturity date, or some new date fixed by a duly recorded extension agreement, shall be conclusively presumed to have been paid unless the record of such mortgage, or lien, shows a credit by the mortgagee, or lienec, or owner of the debt, or his assignee of one or more payments upon such indebtedness within the twenty (20) years last passed. And if the final maturity date of the debt is not shown by the mortgage or lien, or a recorded extension agreement, then the time shall run from the date of the mortgage, or lien.

Section Two: The notation of credits mentioned in the next preceding paragraph may be made upon the record of any such

mortgage, or vendor's lien, by the owner of the indebtedness, or someone holding a duly recorded power of attorney authorizing it. Such notation must show the date of the payment made, the date the entry was made upon the record, and be witnessed by the Probate Judge of the County, or his duly authorized clerk.

Section Three: This act shall be effective on and after the date of its approval by the Governor, Provided, however, as to mortgages, and vendor's liens, executed, or procured prior to the date of its approval, the act shall be effective two years after the date of approval; it being the intention of the Legislature to give the owner of all such mortgages, and liens, executed, or procured prior to the enactment of this Act, at least two years in which to record credits, or extension agreements with respect to such mortgages, and liens.

Section Four: Nothing herein shall be interpreted as changing existing laws as to the rights of parties, or their devisees, or heirs-at-law to such mortgages and lien holders as among themselves.

Section Five: This act shall not apply to mortgages and deeds of trust executed by corporations and political subdivisions securing bonds and in which the maturity dates of the respective series of bonds which are permitted to be issued thereunder are not fixed in the mortgage or deed of trust.

Approved March 20, 1939.

No. 192)

(H. 271—Sanderson

AN ACT

To Authorize And Provide For The Payment Of The Sum Of \$24.64 For The Relief Of Junius J. Pierce And J. D. Jolly, As A Refund On The Purchase Price Of A Tax Certificate Sold To Said Parties, December 10, 1936, By The State Land Commission By Error.

Be it Enacted by the Legislature of Alabama:

Section 1. That there is hereby appropriated out of any funds in the State treasury not otherwise appropriated the sum of \$24.64 for the relief of Junius J. Pierce and J. D. Jolly, to reimburse them for money collected from them by the State Land Commission, December 10, 1936, for a tax certificate to Lot 6 and 10 feet of 7, square 5 Bell Air Sub-division, situated in Montgomery County, Alabama, said property, prior to such tax assessment, on December 26, 1924, having been sold and deeded to the State of Alabama for the use and benefit of the State Normal School for Colored students, at Montgomery, Alabama, said property not being subject to taxation, and the tax certificate sold to said parties being void.

Section 2. That promptly after the passage and approval of this Act, the Director of Finance and/or the State Comptroller shall issue his warrant on the State Treasurer in favor of the said Junius

J. Pierce and J. D. Jolly for the sum of \$24.64, which shall be paid by the State Treasurer out of the General funds of the State.

Approved March 16, 1939.

No. 194)

(H. 298—Robinson (St. Clair)

AN ACT

To Amend Section 5363 Of The Code of Alabama of 1923.

Be it Enacted by the Legislature of Alabama:

(Section 1.) That Section 5363 of the Code of Alabama of 1923 be amended so as to read as follows: "5363. Any person other than a railway employee or bus or truck employee in the discharge of his duty, who, without authority of the conductor of the train or by permission of the engineer or by permission of the driver or other person in charge of the bus or truck, and with the intention of being transported free and without paying the usual fare for such transportation, rides or attempts to ride on the top of any car, coach, engine or tender on any railroad in this state or on the drawheads between cars, or under cars on truss rods or trucks, or in any freight car, or on a platform of any baggage car, express car or mail car on any train in this state, or on or about any bus or truck, or any part thereof, operated on any highway in the State of Alabama operating subject to a certificate of public convenience and necessity granted by the Alabama Public Service Commission, shall be guilty of a misdemeanor and on conviction shall be fined not less than \$10.00 nor more than \$100.00."

Approved March 16, 1939.

No. 195)

(H. 307—Hare

AN ACT

To Amend Section 892 of the Code of Alabama of 1923.

Be it Enacted by the Legislature of Alabama:

Section 1. That Section 892 of the Code of Alabama of 1923 be and the same is hereby amended so as to read as follows: "892. APPLICATIONS, VERIFIED STATEMENTS, AND SECURITIES OF BANKS FILED BEFORE DESIGNATED AS DEPOSITARIES.—Before any bank or trust company shall be designated as a state depository it shall file with the state auditor and state treasurer an application in writing to be designated as a state depository under the terms of this article, and shall accompany such application with a statement, verified by the affidavit of its

president or other executive head, setting forth the amount of its paid-in capital stock, surplus and undivided profits, its principal place of business, the length of time it has been engaged in business and a statement of its assets and liabilities at the time of making said application, and shall also accompany its application with a deposit of bonds or securities in an amount not less than ten thousand dollars par or face value. The only bonds or securities which can be accepted as security for the deposit of state funds are the direct obligations of the State of Alabama, the direct obligations of the United States Government, the bonds of the Alabama Bridge Corporation, the bonds of the Alabama Bridge Authority, the bonds and/or warrants of the Alabama State Highway Corporation; provided that at least sixty per cent (60%) of the amount of the deposit of bonds or securities of any such bank or trust company must consist of the direct obligations of the State of Alabama, it being further provided that the bank or trust company shall have the privilege of making the balance of its deposit in any of the other bonds or securities hereinabove set forth; provided further that all such securities whether direct obligations of the State of Alabama or otherwise, must be accepted at face or par value. Such bonds shall be registered bonds and in the name of the bank or trust company so depositing the same, which bonds are to be kept and held by the state treasurer, and it shall be so stated in said application, as a security to the state for the faithful performance of the duties of such bank or trust company as a state depository, and that it will well and truly account for and pay over any moneys or funds of the state upon the check or order of the state treasurer."

Section 2. All laws or parts of laws in conflict with this Act be and the same are hereby repealed.

Section 3. This Act shall take effect and be operative immediately upon its approval by the Governor or upon it becoming a law.

Approved March 16, 1939.

No. 198)

(H. 328—Newman

AN ACT

To Amend Section 1545 of the Code of Alabama, 1923

Be it Enacted by the Legislature of Alabama:

That Section 1545 of the Code of Alabama, 1923, be amended so as to read as follows: "That Court of County Commissioners, the Board of Revenue, or other governing bodies of the Counties of this State, and municipalities, through their governing bodies, may establish and maintain or aid in establishing and maintaining

free public libraries for the use of the citizens of the respective counties, or municipalities, either separately or in connection with public schools, and to that end may accept gifts, donations and bequests of land, buildings, or money therefor, and may make appropriations from the county or municipal treasury in support thereof in such sums as they may deem proper."

Approved March 16, 1939.

No. 199)

(H. 329—Newman

AN ACT

To Amend Section 1546 of the Code of Alabama, 1923.

Be it Enacted by the Legislature of Alabama:

That Section 1546 of the Code of Alabama, 1923, be amended so as to read as follows: "The government and supervision of such libraries shall be vested in a library board consisting of five members who shall be appointed by the governing body of the county or municipality. The terms of membership on the Library Board as first appointed for one member shall be for one year; for the second member shall be for two years; for the third member shall be for three years; and for the remaining two members the terms shall be for four years; after the first term, all appointments shall be for four years. The governing body shall fill all vacancies including expired and unexpired terms. Members of the Library Board shall serve without compensation."

Approved March 16, 1939.

No. 200)

(H. 330—Newman

AN ACT

To Amend Section 1547 of the Code of Alabama, 1923.

Be it Enacted by the Legislature of Alabama:

That Section 1547 of the Code of Alabama, 1923, be amended so as to read as follows: "The Library Board so created shall have full power and authority to control the expenditure of all funds received or appropriated for such libraries; to erect or rent buildings, to cost not in excess of the funds available to it; to purchase books and equipment; to provide a system of library service; to be made easily available to all citizens of the county or municipality through central library, branches, stations, book truck service, or other appropriate means, to elect a librarian and other employees, and otherwise to have full authority and power to manage and

control the said library in order to carry out the full intent and purpose of this Act; and a careful and complete record and set of books shall be kept by the Library Board, showing the proceedings of their several meetings and the receipts and disbursements in detail of all funds. In counties where a city having a population of not less than 65,000 at the time of this Act, already maintains a free public library, a separate county library board need not be appointed, the county libraries and the appropriations authorized shall be administered by the governing board of such free public library on such terms as may be agreed upon between the above county authorities and the said governing board."

Approved March 16, 1939.

No. 201)

(H. 331—Newman

AN ACT

To Amend Section 1548 of the Code of Alabama, 1923

Be it Enacted by the Legislature of Alabama:

That Section 1548 of the Code of Alabama, 1923, be amended so as to read as follows: "Any rural, town or village school library, secured or provided under the preceeding article may, on application of the district Library Board, to the County Library Board, affiliate such library with the county library, or with the free public library administering the county library, in accordance with rules fixed by the county Library Board or the free Public Library Board. In lieu of establishing and/or maintaining free public libraries exclusively for a single county or municipality in the manner hereinbefore provided, the Library Board of any county, or municipal, free public Library may contract, in behalf of the political unit represented by such local library board, to and with the library board of other political unit, or governmental agency or instrumentality, with respect to the establishment and/or maintenance of joint library service upon such terms as may be agreed upon by the several contracting parties. Where there is no existing public library, the power thus to contract shall vest in the governing body of the county or municipality. Included in the power conferred is the determination of basis and personnel of representation of the local political units on the joint library board administering the joint library service established hereunder. Such board, when appointed, shall have the powers and duties hereinbefore granted to county or municipal library boards. County and municipal library boards or joint library boards shall have the power to cooperate with all State and Federal agencies and institutions in furtherance of the purpose of this Act, and all municipal,

county and joint library boards shall from time to time submit such records and reports as may be required by the Public Library Service Division, provided, however, that nothing in this section shall be so construed as to infringe upon any municipal charter provisions governing the administration of existing free public libraries."

Approved March 16, 1939.

No. 203)

(H. 337—Welch

AN ACT

To amend Sections 6687 and 6696 of the 1923 Code of Alabama.

Be it Enacted by the Legislature of Alabama:

Section 1. That section 6687 of the 1923 Code of Alabama be and the same is hereby amended so that it shall read as follows: "The court of such circuits shall have three separate divisions; an equity division, a criminal division, and a law division; and the judges of such circuits shall serve or sit in such division and perform such duties in any division as they may be directed from time to time by the Presiding Judge; provided, however, that in such circuits where a branch or division of the circuit court is held at a place other than the county site, the judge numbered fifth shall sit in that division as of course, and he shall preside over such division in the trial of all cases, whether equity, criminal or law."

Section 2. That section 6696 of the 1923 Code of Alabama be and the same is hereby amended as follows: "The presiding judge shall from time to time, as may be necessary, change the order of business as experience shows will expedite the transaction of the business of the court, and shall change the assignment of the different dockets to the judges to obtain the quickest dispatch of business, so that every judge shall do his full share of the work; provided, however, that in circuits composed of only one county for which more than three judges are provided, the judges shall try such cases and perform such duties as they may be directed from time to time by the Presiding Judge, and any law, general, special or local to the contrary is hereby repealed.

Section 3. This Act shall go into effect on its passage.

Approved March 16, 1939.

No. 204)

(H. 341—Smyer

AN ACT

Relating to redemption of real property from any sale heretofore or hereafter made for the satisfaction of a local improvement assessment lien thereon.

Be it Enacted by the Legislature of Alabama:

Section 1. Any real property heretofore or hereafter sold for the satisfaction of a local improvement assessment lien imposed thereon by the governing body of a municipality may be redeemed by the former owner, or his assigns, or other person authorized to redeem property sold for taxes by the State of Alabama, within two years from the date of such sale, by paying to the purchaser at such sale or to any person deraining title under such purchaser, or to the city treasurer for such purchaser or person deraining title under such purchaser, the amount of the purchase price for which the property was sold at such sale plus an amount equal to interest on such purchase price from the date of such sale to the date of redemption at the rate of eight per centum per annum plus a fee of two dollars to cover the expense of a conveyance.

Section 2. The fixed two-year period of redemption allowed or provided by Section 1 hereof for the redemption of any property heretofore or hereafter sold for the satisfaction of any such lien is hereby extended to a date sixty days after the date of the certificate of warning to redeem hereinafter provided for, but in no event for a longer period than six years from the date of such sale.

Section 3. At any time after a local improvement assessment sale deed has been recorded in the office of the Probate Judge of the county in which the property therein described lies, and after expiration of the fixed two-year period of redemption allowed by Section 1 hereof, any person may apply to such Probate Judge for entry upon the margin of the record of such deed of a certificate of warning to redeem in substantially the following form: "I hereby certify that on or prior to the date of this certificate I mailed a compared copy of the deed here recorded, together with notice that the same is here recorded, and a warning to redeem, to each of the one or more persons other than the grantee in said deed, to whom the property therein described was last finally assessed for ad valorem taxation at the address of each such person as shown by said ad valorem tax assessment records. This _____ day of _____, 19____, _____, Probate Judge."

Section 4. At the time of application for entry of such certificate of warning to redeem the applicant shall deliver to the Probate Judge three correct copies of said deed with a notation thereon of the deed book and page where recorded, and shall pay to said Probate Judge a fee of one dollar. Said copies of deed need not

include any certificate of acknowledgment. It shall thereupon be the duty of said Probate Judge to promptly compare said copies with the record of such deed and, if such copies be found to be correct copies of such record, it shall be the further duty of such Probate Judge to ascertain from the ad valorem tax assessment records of his county the name of the person or persons other than the grantee in said deed, to whom the property described in said deed was last finally assessed for ad valorem taxation, together with the address of each such person as shown by said tax assessment records, and thereupon to promptly mail to each such person at such address one of the aforesaid compared copies of said deed, together with an attached warning to redeem in substantially the following form: "Take notice that there is recorded in my office in Deed Book_____ at page_____ a deed of which the attached is a correct copy. You are warned that unless you, or those claiming under you, take prompt steps to redeem from those claiming under said deed, all rights of redemption may be lost. This_____ day of _____, 19_____, _____, Probate Judge,

_____ County, Alabama." Promptly upon, or after, mailing such notice or notices and compared copy or copies of deed, it shall be the duty of said Probate Judge to enter upon the margin of the record of such deed a certificate of warning substantially as prescribed by Section 3 hereof and to sign such certificate and to date the same evenly with the date of entry. At the expiration of sixty days after the date of such certificate, whether such certificate be true or false, all rights to redeem from the sale shown by such deed shall cease and determine.

Section 5. The duties herein imposed upon the Probate Judge may be performed in his name and stead by any person or persons thereunto authorized by him. The faithful performance of such duties may be compelled by mandamus, but the Probate Judge shall not be liable in damages for any error or mistake in the performance of such duties committed in good faith.

Section 6. Redemption may be effected after expiration of the fixed two-year period of redemption allowed or provided by Section 1 hereof, and before the extended period of redemption has expired, in the same manner and at the same redemption price as is provided in Section 1 hereof; provided that if the Probate Judge has made the certificate of warning to redeem as hereinabove provided, said redemption price shall be increased by one dollar; and provided, further, that if the grantee in the aforesaid deed, or any person deraining any title or right under him, shall have placed any improvements upon said property after expiration of the fixed two-year period of redemption allowed or provided by Section 1 hereof, then redemption must be effected by bill in equity and the redemption price shall be increased by the value of such improvements, to be ascertained in such cause in equity.

Section 6 (a) Provided however that this act shall not apply to unimproved real estate that has been heretofore purchased by any municipality at a municipal assessment sale and by said municipality sold to a third party.

Section 7. This Act shall take effect upon its passage.

Approved March 16, 1939.

No. 205)

(S. J. R. 68—Rules Committee

SENATE JOINT RESOLUTION

Creating Senate and House recess committee on Finance and Taxation.

BE IT RESOLVED by the Senate, the House of Representatives concurring as follows:

Section 1. That there is hereby created a joint Senate and House recess committee on Finance and Taxation, to be composed of five members of the Senate, to be selected by the Senate, and nine members of the House of Representatives, to be appointed by the Speaker of the House, who are hereby authorized and directed to serve during the recess of the legislature, and whose duty it shall be to make a careful and proper study of the finances of the State and of the appropriations which shall be made for all State purposes; and said Committee shall report its findings and recommendations to the Legislature when it reconvenes after the recess.

Section 2. The members of said Joint Recess Committee hereby created shall meet as soon as may be convenient and they shall elect a chairman and Vice Chairman of the committee; and the committee shall thereafter meet at the call of the chairman and as the members thereof shall determine in carrying out the purposes of said committee. The members of said committee shall give such time as may be necessary to carry out the duties of the committee as herein provided.

Section 3. The chairman of said committee hereby created is hereby authorized and empowered to employ one skilled stenographer who shall receive not exceeding Four Dollars (\$4.00) per day, and also one clerk who must be a competent and well qualified clerk who shall receive not exceeding Four Dollars (\$4.00) per day. Said Committee is hereby authorized and empowered to employ such statistical and expert assistance as may be necessary, and to pay such compensation therefor as the committee may deem just and reasonable. Said Committee is further authorized and empowered to incur such expenses as may be reasonably necessary in and about the performance of its duties as hereinabove provided.

Section 4. The members of the Recess Joint Committee hereby created shall receive \$8.00 per day for the entire time engaged, as provided in an Act of the Legislature of 1927 entitled, "An Act To

fix the per diem or compensation of members of all recess committees or commissions appointed by joint resolution or act of the two houses of the Legislature, and the compensation of their employees and to provide for their payment", approved February 18, 1927, (Acts of the Legislature of 1927, Page 60), except in cases of recess or adjournment exceeding three days. The members of said committee shall also receive the same expense allowance per diem as members of the Legislature are paid, the same to be paid for the entire time engaged except in cases of recess or adjournment exceeding three days. The members of said committee shall also receive the same mileage they receive for attending the Legislature, but said members of said committee shall not receive mileage more than once.

Section 5. The chairman of the committee shall certify to the Comptroller the amount due the members and employees of said Committee, and the Comptroller must draw his warrant therefor on the State Treasurer; and said chairman shall also certify to the Comptroller all expenses and obligations incurred by said committee in the performance of its duties hereunder, and the Comptroller must draw his warrant in payment therefor on the State Treasurer.

Section 6. For the purpose of carrying out this resolution, such committee shall have full power and authority to summon and examine witnesses, administer oaths, and require the production of such books, papers, contracts, documents, records, memoranda and copies thereof, as may be necessary in carrying out the purposes and intent of this resolution. The chairman of the committee or any member of a subcommittee may administer oaths to witnesses and sign subpoenas for witnesses which shall be served by any person designated by such chairman or member of a sub-committee. Every person duly summoned by such joint committee or subcommittee thereof who refuses or fails to obey the summons or fails to answer the questions pertinent to the investigation shall be punished as provided by law. In the performance of its duties the joint committee is authorized to utilize the services, information, facilities and personnel of any department or agency in the executive branch of the government of the State of Alabama. All witnesses who may be summoned, as herein provided, shall be paid \$3.00 per day for the time expended in attendance on the hearings of the committee and in traveling to and from his place of residence. Such witnesses shall also be paid 5c per mile in traveling from their residence to and from the place of the committee hearing. The Chairman of the Committee shall certify to the Comptroller the amount due each witness for attendance and mileage, as herein provided, and the Comptroller must draw his warrant upon the State Treasurer, payable to said witness for said sum due him.

Section 7. Any vacancy occurring in the Senate membership shall be filled by the remaining members of the Senate on the Com-

mittee, and any vacancy occurring in the House Membership shall be filled by the remaining members of the House on the Committee.
 Approved March 17, 1939.

No. 206)

(H. J. R. 59—Rules Committee

HOUSE JOINT RESOLUTION

Be it Resolved by the House of Representatives, the Senate Concurring:

Section 1. That there are hereby created a recess Committee on Judicial Reform, a recess Committee on Education and Highways, and a recess Committee on Agriculture, to serve during the recess of the Legislature to be taken during the present session. Each recess Committee so created shall each consist of nine members of the House of Representatives to be appointed by the Presiding Officer of the House, and five members of the Senate to be elected by the Senate. When the whole membership of said recess Committees shall have been named as herein provided the members of each of said Committees shall select a Chairman and Vice-Chairman thereof. The members of said Committees shall give all the time necessary to carry out the duties of the Committees herein provided for.

Section 2. The Committee on Judicial Reform is authorized and it shall be its duty to make a careful and proper study of the Judicial system, laws and rules of Courts of the State, and it shall report its findings and recommendations to the Legislature when it reconvenes. The Committee on Education and Highways is authorized and it shall be its duty to make a careful and proper study of the Educational laws and needs of Alabama, and it shall report its findings and recommendations to the Legislature when it reconvenes. The Committee on Agriculture is authorized and it shall be its duty to make a careful and proper study of the Agricultural laws and needs of Alabama and it shall report its findings and recommendations to the Legislature when it reconvenes.

Section 3. The Chairman of each Committee created under this Joint Resolution shall be empowered to employ one clerk who shall serve each recess Committee so created and whose compensation shall be Four Dollars (\$4.00) per day, but for a period of time not to exceed thirty days.

Section 4. The compensation and expenses of the members of said Committees shall be fixed as the compensation and expenses now provided by law under An Act of the Legislature of 1927, approved February 18, 1927, Acts 1927 Page 60 H. 95), but for a period of time not to exceed thirty days. The members of the said Committees shall also receive the same mileage they received for

attending the Legislature but said members of the Committees shall not receive mileage more than once. Provided, however, that each member of the above named Committees shall receive their necessary expenses while away from the City of Montgomery in the performance of their official duties as members of such Committees while the Committees are in session. The Chairman of such Committee shall certify to the Comptroller what is due each member or clerk who must draw his warrant therefor on the State Treasury.

Section 5. For the purpose of carrying out this Resolution, such committees shall have full power and authority to summon and examine witnesses, administer oaths, and require the production of such books, papers, contracts, documents, records, memoranda and copies thereof, as may be necessary in carrying out the purposes and intent of this Resolution. The chairman of each of the committees or any member of a subcommittee may administer oaths to witness and sign subpoenas for witness which shall be served by any person designated by such chairman or member of a subcommittee. Every person duly summoned by such joint Committee or subcommittee thereof who refuses or fails to obey the summons or fails to answer the questions pertinent to the investigation shall be punished as provided by law. In the performance of its duties the joint committee is authorized to utilize the services, information, facilities and personnel of any department or agency in the executive branch of the government of the State of Alabama. All witnesses who may be summoned, as herein provided, shall be paid \$3.00 per day for the time expended in attendance on the hearings of the committee and in traveling to and from his place of residence. Such witnesses shall also be paid 5c per mile in traveling from their residence to and from the place of the committee hearing. The chairman of the committee shall certify to the comptroller the amount due each witness for attendance and mileage, as herein provided, and the comptroller must draw his warrant upon the State Treasurer, payable to said witness for said sum due him.

Approved March 17, 1939.

No. 207)

(H. J. R. 60—Rules Committee

HOUSE JOINT RESOLUTION

Providing that the Clerk of the House and the Secretary of the Senate keep their offices open during the recess of the legislature; for their assistants, for their duties and for their per diem.

BE IT RESOLVED by the House and Senate concurring that the Clerk of the House and the Secretary of the Senate shall, dur-

ing the recess of the Legislature, keep their offices open for the convenience of the members of the legislature and the public and furnish such information to the members of the legislature and the public that may be desired.

RESOLVED FURTHER that during the recess of the legislature the Clerk of the House, the Asst. Clerk of the House, the Reading Clerk of the House, the Chief Clerk to the Clerk of the House, shall check and complete the journals and other records of the House in order that the same may be brought up to date when the House reconvenes on July 18, 1939, and that each shall receive the same per diem as now provided by law.

RESOLVED FURTHER that during the recess of the legislature the Secretary of the Senate, the Asst. Secretary of the Senate, the 2nd Asst. of the Secretary of the Senate, shall check and complete the journals and other records of the Senate in order that the same may be brought up to date when the Senate reconvenes on July 18, 1939, and that each shall receive the same per diem as now provided by law.

Approved March 17, 1939.

No. 208)

(H. 366—Sessions

AN ACT

In relation to the public school system of Alabama: to make an emergency appropriation for the purpose of extending the school term of the State and to provide for its apportionment.

Be it Enacted by the Legislature of Alabama:

Section 1. There is hereby appropriated out of excess funds as hereinafter defined, if any, in the State's General Fund to the State Board of Education for the fiscal year 1938-39, in addition to all other appropriations to such Board, an amount not in excess of \$825,000.00 as an emergency appropriation for the purpose of extending, if possible, the 1938-39 school term one month in all county and city schools systems.

Section 2. The amount of this appropriation to be apportioned to each county and city school system by the State Board of Education shall be the sum of the following: (a) calculate the cost of teachers' salaries, excluding vocational teachers, for grades I to XII, inclusive, for one month according to the state minimum salary schedule adopted by the State Board of Education; (b) calculate the cost of transporting the children of grades I to XII, inclusive, for one month by multiplying the aggregate daily attendance for one month of school of the transported children by the allowable cost per pupil per day transported for that school system as calculated by the State Board of Education; (c) calculate one

month's allotment for capital outlay according to the provisions of Act No. 295, General Acts of 1935, approved September 2, 1935, and the regulations of the State Board of Education pertaining to the administration of this act, provided that this allotment shall be made to city school systems on the same basis as to county school systems; (d) calculate the cost of current expenses for purposes other than teachers' salaries and transportation for one month according to the provisions of Act No. 295, General Acts of 1935, approved September 2, 1935, and the regulations of the State Board of Education pertaining to the administration of this act.

Section 3. The term "excess funds" as used in Section 1 hereof shall be taken to mean such sum as that by which the funds in the General Fund available for the payment of appropriations for the fiscal year 1938-39 exceeds the sum of all other appropriations payable out of the State's General Fund plus the sum of \$500,000.00 cash to be kept in the treasury for current expenditures and to enable the State to take advantage of cash discounts. The sum here appropriated shall be paid only if the condition of the Treasury makes it available in time to meet the expenses of the 1938-39 school term; and shall not be borrowed against or anticipated by any county or city school system. If the funds in the State Treasury available to pay this appropriation are insufficient to pay in full the appropriation set out in Section 1 of this Act, the State Board of Education shall allot to each county and city school system its proportionate part of the amount of the appropriation which is available as determined by Section 2 of this Act.

Section 4. This act shall take effect immediately upon its passage and approval by the Governor or its otherwise becoming a law.

Approved March 16, 1939.

No. 209)

(S. 91—DeVane

AN ACT

To provide for a secret ballot in Alabama; to prescribe the manner and method of numbering ballots to attain this end; to provide punishment for violation of the provision of this Act; and to repeal all laws and parts of laws in conflict herewith.

Be it Enacted by the Legislature of Alabama:

Section 1. That every voter in Alabama shall have the right to vote a secret ballot, that ballot shall be kept secret and inviolate.

Section 2. When a voter casts his ballot, it shall be numbered by the inspectors as now provided by law, except that the numbering shall be done in the following manner: At the bottom of each ballot, and at a point an equal distance from the side thereof, there

shall be printed a one inch square, and the number of the ballot shall be placed by the inspector inside this square and nowhere else upon the ballot. Immediately after the inspector places the number on the ballot in the square provided therefor, he shall forthwith, and in the presence of the voter and before placing the ballot in the ballot box, place a seal over the square in such manner as to make it impossible to see the number placed therein without removing the seal, but in such manner as that the seal may be removed without obliterating the number placed in the square. The seals to be used for this purpose shall be black and shall be furnished as a part of the election supplies by the persons now authorized by law to furnish other election supplies, shall be two inches square, and around the outer edge thereof, one-fourth inch in width, there shall be a mucilaginous surface so that the seal may be securely placed over the square and may be later removed in the manner provided for herein without obliterating the number placed in the square. As many seals shall be furnished for each voting place as there are ballots furnished for that voting place.

Section 3. No seal placed upon a ballot as herein provided for shall be removed or broken except in the case of an election contest or grand jury investigation, and then only upon the order of the officer in charge of the election contest or grand jury investigation as the case may be.

Section 4. Any election official found guilty of violating the provisions of this Act by failing to number a ballot or ballots and seal the same in the manner hereinabove provided for shall be guilty of a misdemeanor and upon conviction shall be fined not less than \$10.00 nor more than \$100.00. Any person found guilty of violating the provisions of this Act by removing, breaking or tampering with a seal placed on a ballot in conformity with the provisions of the preceding sections, except in the manner hereinabove provided, shall be guilty of a felony and upon conviction shall be punished by imprisonment in the penitentiary for a term of not less than one nor more than five years.

Section 5. The provisions of this Act shall apply to all elections held in this State, general, primary and municipal.

Section 6. All laws and parts of laws in conflict herewith be and the same are hereby expressly repealed.

Section 7. This Act shall become effective upon its passage and approval by the Governor or its otherwise becoming a law.

Approved July 28, 1939.

No. 210)

(H. 79—Mayhall

AN ACT

To provide for surveys by the State Highway Department by authorizing officers or employees of the State Highway Department to enter upon and go across the lands of any individual or corporation in the State of Alabama for the purpose of making surveys necessary for the construction of highways, roads or bridges to be constructed by it or under its supervision and to enter upon the property of individuals or corporations for the purpose of securing samples of the land to determine if same can be used as a source of material for the construction, maintenance and improvement of public highways, roads and bridges; to provide for the erection of necessary stobs, stakes, monuments or other markers in carrying out such surveys. To further provide for the preservation of growing crops, and define liability of officers of the State Highway Department.

Be it Enacted by the Legislature of Alabama:

Section One. All officers and employees of the State Highway Department are hereby authorized and empowered to enter upon and go across the lands of any individual or corporation in the State of Alabama, for the purpose of making any and all surveys necessary for the construction of any highways, roads, and bridges, to be constructed by it or under its supervision and to enter upon the property of individuals or corporations for the purpose of securing samples of the land to determine if same can be used as a source of material for the construction, maintenance and improvement of public highways, roads, and bridges, provided however, the securing of such samples does not interfere with any growing crops.

Section Two: Such officers or employees are not relieved of civil liability for any damages caused by any acts authorized in Section One of this Act.

Section Three: Such officers or employees may erect or place such stobs, stakes, monuments or other markers as may be required in carrying out such survey.

Section Four: If any paragraph, sentence, clause, or phrase of this Act be held invalid by any court of competent jurisdiction, then such holding shall not apply to any other paragraph, sentence, clause, or phrase not so specifically held invalid.

Section Five: This Act shall become effective upon its passage.

Approved August 7, 1939.

No. 212)

(H. 104—Sherrer & Quarles

AN ACT

To amend Schedule 158.17 of Section 348 of Chapter 6 of Article XIII of an Act entitled: "An Act to provide for the General Revenue of the State of Alabama, Approved July 10, 1935." (General Acts, 1935, page 527).

Be it Enacted by the Legislature of Alabama:

That Schedule 158.17 of Section 348 of Chapter 6 of Article XIII of an Act entitled: "An Act to Provide for the General Revenue of the State of Alabama", be amended so as to read as follows: "Schedule 158.17: All motor vehicles licenses under this Act shall become due on the 15th day of November of each year, and delinquent after that date; but they shall be issued on application at any time within 45 days prior to that date."

Approved August 8, 1939.

No. 213)

(S. 154—Clayton

AN ACT

To Amend Section 4 of An Act entitled "An Act to further regulate the voting of absentee ballots in the State of Alabama; To prohibit the Judges of Probate and other officers from handling absentee ballots in elections where such officers are candidates; To provide for and require election officers for handling and tabulating absentee ballots; To provide for the punishment of violations; and to repeal such parts of present laws as are in conflict herewith," approved April 19, 1933.

Be it Enacted by the Legislature of Alabama:

Section 1. That Section 4 of an Act entitled "An Act to further regulate the voting of absentee ballots in the State of Alabama; To prohibit the Judges of Probate and other officers from handling absentee ballots in elections where such officers are candidates; To provide for and require election officers for handling and tabulating absentee ballots; To provide for the punishment of violations; and to repeal such parts of present laws as are in conflict herewith," approved April 19, 1933, be and the same is hereby amended to read as follows: "Section 4. In any primary election which may be held in any county in this state, in which the chairman of the executive committee of the political party holding such primary election is a candidate for nomination to any office, such chairman shall be disqualified from performing any of the duties with reference to the handling of absentee ballots which are now required to be performed by him. Such chairman who is thus disqualified shall, at least forty-five days prior to the date of such primary election, certify to the secretary of the executive committee of which he is chairman the fact that he is so disqualified, and thereupon the secretary of the executive committee of which he is chairman shall perform all such duties required to be performed by the chairman. The secretary of the executive committee when the chairman is disqualified is hereby authorized to perform all duties with reference to the handling of absentee ballots in such primary which are now or may hereafter be required to be per-

formed by the chairman of the political party holding such primary. Provided further that if the secretary of the executive committee is also a candidate for nomination to any office, he shall likewise be disqualified, in which event the chairman shall call a meeting of the executive committee of which he is chairman, at least forty-five days prior to the date of the primary, and the committee at such meeting shall select by majority vote one of its members who is not thus disqualified to perform the duties required of the chairman with reference to the handling of absentee ballots, and such member of the executive committee, when so selected, is hereby authorized to perform all duties with reference to the absentee ballots in such primary which are now required to be performed by the chairman. Provided, however, that the candidacy of the chairman, secretary or a member of the executive committee for reelection to the place on the executive committee held by him shall not be deemed a candidacy for nomination to any office and such candidacy on the part of the chairman, secretary or a member of the executive committee for reelection to the place on the executive committee held by him shall not disqualify him from performing the duties with reference to the handling of absentee ballots which are now required to be performed by him.

Section 2. That this Act shall become effective upon its passage and approval by the Governor or its otherwise becoming a law.

Approved August 8, 1939.

No. 221)

(H. 456—Langan, Megginson, Stone

AN ACT

To amend Section 7043 of Article 7 of Chapter 274 of the Code of Alabama, 1923.

Be it Enacted by the Legislature of Alabama:

That Section 7043 of Article 7 of Chapter 274 of the Code of Alabama, 1923 be amended so as to read as follows: 7043 (3509)

PROCEEDINGS IN CASE ANY STOCKHOLDER DISENTS FROM MERGER.—Upon the merger or consolidation of two or more corporations into a single corporation as in this article provided, the secretary of each of the corporations participating in such proposed merger or consolidation shall forthwith after the stockholders meetings at which such merger or consolidation was determined, notify by registered mail each of the stockholders of the respective corporations who were not present at said meeting in person, that the stockholders of such corporation have determined in favor of the merger or consolidation of said corporation, and if any stockholder in any of the merging or consolidating

corporations who has not voted in favor of the merger or consolidation, shall dissent therefrom and shall so notify in writing the secretary of the corporation of which he is a stockholder, or the secretary of the merged or consolidated corporation, within twenty days after the date of the meeting of the stockholders of the corporation of which he is a stockholder at which such proposed merger or consolidation was approved, and shall fail to convert his stock into the stock of the consolidated corporation, or dispose thereof in the manner and on the terms specified in the agreement of consolidation, such dissenting stockholder shall be paid the market value of his stock, if he demands it, and may at any time within thirty days after the filing of such agreement of consolidation or the new or consolidated corporation may, within such time, apply by petition to the court of probate of the county in which the chief office of the corporation whose stockholder shall so dissent and fail, was or is situated, and the court, on reasonable notice to be prescribed by it, to the consolidated corporation or to the dissenting stockholder, as the case may be, shall appoint three disinterested appraisers to appraise the market value of his stock. Such appraisers shall take an oath fairly and impartially to appraise the market value of such stock, without regard to any appreciation or depreciation thereof by reason of such consolidation, and shall within ten days make and return to the court their appraisement thereof; and such appraisement shall not be confirmed by the court until the expiration of ten days from the day it is returned into court. If no contest of the appraisement is filed by either party within ten days from the return thereof into court, or if, upon hearing any such contest the court is satisfied that the appraisement is the market value of the stock of such dissenting stockholder, the court must enter an order confirming said appraisement, and such confirmation shall be final and conclusive on all parties unless an appeal is taken within ten days to the circuit court of such county or other court exercising like jurisdiction. Upon the filing of the notice of appeal by either party with the judge of such probate court within said period, such judge must certify all proceedings and the appraisement to such circuit court or other court exercising like jurisdiction, and in such court an issue must be made up under the direction of the court, and the cause tried as other causes are tried in such court. If no such appeal is taken, and the market value of his stock so ascertained be not paid to the dissenting stockholder within thirty days from the confirmation of said appraisement, the order confirming the same shall be a judgment for the amount thereof against the consolidated corporation and may be collected as other judgments of said court are collectable by law. The probate court may, if it be satisfied that the appraisement is not the market value of said stock, set aside the appraisement and enter an order for the amount which

the evidence satisfies it is the market value thereof, in which event the rights and liabilities of the parties shall be in all respects the same as in case of a confirmation of the appraisement, and the rights of the creditors of the several former corporations in and upon the assets and property formerly owned by the respective corporations shall not be impaired or affected by the award or judgment obtained by such dissenting stockholder thereunder. This act shall take effect upon its approval by the Governor.

Approved August 11, 1939.

No. 225)

(S. J. R. 82—Calhoun

SENATE JOINT RESOLUTION

Expressing appreciation of Hon. William B. Bankhead.

WHEREAS, Hon. William B. Bankhead has served his native state long and well and has achieved during the course of such service the signal honor of Speaker of the House of Representatives of the United States, and

WHEREAS, the Legislature of Alabama desires to give expression to its appreciation of the labors which he has performed in behalf of his state, and

WHEREAS, Mr. Bankhead is held in high esteem and regard among the citizens of this state as a thinker and an orator, and

WHEREAS, it is the sense of this body that the Legislature of Alabama should seize this opportunity to hear a great Democrat who occupies a position of such high trust in Washington,

NOW, THEREFORE, BE IT RESOLVED by the Senate of Alabama, the House concurring:

First, that an invitation be extended to Hon. William B. Bankhead, Speaker of the House of Representatives of the United States, to address, at such time as may be convenient for him, a joint session of the Senate and House of Representatives of the State of Alabama.

Second, that a copy of this resolution be transmitted by the Secretary of the Senate to Mr. Bankhead.

Approved August 11, 1939.

No. 227)

(H. 417—Hardwick

AN ACT

To dispense with an indictment by a Grand Jury in all felony cases, except those punishable by death, and to provide for prosecutions and proceedings in such felony cases where defendants, after having had the advice of counsel, plead guilty in open court to the commission of a non-capital felony.

Be it Enacted by the Legislature of Alabama:

Section 1. In all felony cases, except those where the punishment imposed may be death, in which the defendant has been bound over to the circuit court to await the action of the grand jury, or is confined in jail awaiting preliminary hearing, or is confined in jail after having waived to the grand jury, such defendant may make known, to the circuit court of the county having jurisdiction of the offense with which he is charged, that he desires to plead guilty.

Section 2. When the desire of a defendant to plead guilty is made known to the court, it shall direct the solicitor or other prosecuting officer of such court to prefer and file an information against such defendant, under the oath of such solicitor or other prosecuting officer, or some witness, which information shall accuse the defendant, with the same certainty as an indictment, of the criminal offense for which he is being held.

Section 3. The court shall ascertain if the defendant has employed counsel to represent him, and if the court finds that the defendant is unable to employ counsel, then the judge of the court having jurisdiction of the case shall appoint a member of the bar to represent the said defendant, and shall not receive a plea of guilty by such defendant, unless the counsel for defendant advises such plea and consents thereto.

Section 4. When such information has been filed as hereinabove provided, and counsel employed or appointed, the court shall, by order entered upon the minutes of the court, fix a date for the defendant to formally make and enter his plea of guilty in open court, which date shall not be within fifteen days after the arrest of the defendant nor within three days after notice to the court of his intention to plead guilty and notice of which date shall be served by the sheriff upon the defendant and upon his counsel.

Section 5. Upon the date fixed for the formal plea of guilty by the defendant, the court shall proceed to hear the testimony of any witnesses who may be summoned or offered either by the State or by the defendant, or whom the court may direct to be summoned, and must hear also the testimony of the defendant; and, if after hearing such testimony, the court believes beyond a reasonable doubt that the defendant is guilty, in manner and form, of the offense charged against him in the information hereinabove provided for, the court shall thereupon receive and enter the plea of guilty of said defendant and shall enter judgment of conviction thereon and sentence said defendant to such term in the penitentiary as is prescribed by law, any other provisions of the law to the contrary notwithstanding.

Section 6. If the court, after hearing the plea of guilty of the defendant and the testimony offered, is of opinion that no offense

has been committed, or is not satisfied beyond a reasonable doubt that the defendant is guilty, then the court may order the defendant recommitted to jail to await the action of the grand jury, or may release the defendant on bond in an amount to be fixed by the court, or may order the defendant to be discharged.

Section 7. After the court has heard and considered the plea of guilty of the defendant, and has permitted the filing of such plea and sentenced the defendant, such defendant shall not have the right of appeal from the action of the court.

Section 8. That all laws and parts of laws, general, special or local, in conflict with the provisions of this Act are hereby expressly repealed.

Section 9. That this Act shall become effective immediately upon its passage and approval by the Governor, or its otherwise becoming a law.

Approved August 16, 1939.

No. 228)

(S. 114—Holmes

AN ACT

To amend Section 1107 of the Code of Alabama, 1923, relating to the control of venereal disease.

Be it Enacted by the Legislature of Alabama:

Section 1. That Section 1107 of the Code of Alabama, 1923, be and the same is hereby amended to read as follows: Section 1107. EXAMINATION AND TREATMENT OF PRISONERS.—All persons who have been confined or imprisoned in any state, county or city prison shall be examined for venereal disease, and, if found infected, shall be provided with proper treatment. The authorities of any state, county or city prison shall make available suitable facilities for treatment purposes. In the case of a discharged prisoner who is still in an infectious stage or who has not received adequate treatment, a written notice shall be submitted to the health officer of the county to which the prisoner is returned, setting forth the necessary facts and a record of the treatment administered while in custody.

Section 2. That this Act shall take effect on its approval by the Governor.

Approved August 16, 1939.

No. 229)

(S. 115—Holmes

AN ACT

To amend Section 1104 of the Code of Alabama, 1923, as amended by the Legislature of 1935, relating to the control of venereal disease.

Be it Enacted by the Legislature of Alabama:

Section 1. That Section 1104 of the Code of Alabama, as amended by the Legislature of 1935, be and the same is hereby amended to read as follows: Section 1104. PHYSICIANS AND OTHERS REQUIRED TO REPORT CASES OF VENEREAL DISEASES TO THE COUNTY HEALTH OFFICER.—Any physician who makes a diagnosis or treats a case of syphilis, gonorrhea, chancroid, lymphogranuloma inguinale, or granuloma venereum, and the superintendent or manager of a hospital or dispensary or penal or other institution in which there is a case of venereal disease, shall report such a case immediately in writing to the county health officer, stating the patient's name, or initials, the age, color, sex, marital status, address, the stage of the disease and occupation of such diseased person, the date, as near as it can be arrived at, of the onset of the disease and the probable source of infection, and the report shall be enclosed in a sealed envelope and sent to the County Health Officer.

Section 2. That this Act shall take effect on its approval by the Governor.

Approved August 16, 1939.

No. 230)

(S. 117—Holmes

AN ACT

To amend Section 1114 of the Code of Alabama, 1923, as amended by the Legislature of 1935, relating to the control of venereal disease.

Be it Enacted by the Legislature of Alabama:

Section 1. That Section 1114 of the Code of Alabama, as amended by the Legislature of 1935, be and the same is hereby amended to read as follows: Section 1114. SUPPRESSION OF PROSTITUTION DECLARED A PUBLIC HEALTH MEASURE. AND PROSTITUTION DECLARED TO BE PRESUMPTIVE EVIDENCE OF VENEREAL DISEASE INFECTION.—Prostitution is hereby declared to be a prolific source of syphilis, gonorrhea, chancroid, lymphogranuloma inguinale and granuloma venereum, and the suppression of prostitution is declared to be a public health measure. All health officers shall cooperate with the proper officials whose duty it is to enforce laws directed against prostitution, and otherwise to use every proper means for the suppression of prostitution. It is further declared that prostitution is presumptive evidence of venereal disease infection; and whenever or wherever apprehended, prostitutes and other persons whom the County Health Officer has probable cause to believe infected with venereal disease shall be examined for said infection by the health officer or his assistant.

Section 2. That this Act shall take effect on its approval by the Governor.

Approved August 16, 1939.

No. 231)

(S. 155—Clayton

AN ACT

Providing for the formation of cooperative, general welfare, membership corporations for the purpose of supplying electric energy and promoting and extending the use thereof; providing for the rights, privileges, powers, duties and obligations of such corporations and the members thereof; authorizing and regulating the issuance and security of notes, bonds and other evidences of indebtedness by such corporations; providing for the payment of such notes, bonds and other evidences of indebtedness and the rights of the holders thereof; providing for the transaction of business within this State by foreign corporations of the same general type; providing for the conversion of corporations formed under other acts of this State into corporations under this Act; and providing for the status of corporations formed under or transacting business pursuant to this Act in respect of the Alabama Public Service Commission, the Public Works Board Act and The Alabama Securities Act.

Be it Enacted by the Legislature of Alabama:

Section 1. This Act may be cited as the "Electric Cooperative Act."

Section 2. Cooperative, non-profit, membership corporations may be organized under this Act for the purpose of supplying electric energy and promoting and extending the use thereof. Corporations organized under this Act and corporations which become subject to this Act in the manner hereinafter provided are hereinafter referred to as "Cooperatives."

Section 3. A cooperative shall have power: (a) To sue and be sued in its corporate name; (b) To have perpetual existence; (c) To adopt a corporate seal and alter the same at pleasure; (d) To generate, manufacture, purchase, acquire, and transmit electric energy, and to distribute, sell, supply and dispose of electric energy to its members, to governmental agencies and political subdivisions, and to other persons not in excess of ten per centum (10%) of the number of its members; provided, however, that should a cooperative acquire any electric facilities dedicated or devoted to the public use it may, for the purpose of continuing service and avoiding hardship and to an extent which together with all other persons served by the cooperative on a non-member basis shall not exceed forty per centum (40%) of the total number of persons served by the cooperative, continue to serve the persons served directly from such facilities at the time of such acquisition without requiring that such persons become members, and provided further that such non-members shall have the right to become members upon non-discriminatory terms; (e) To make loans to

persons to whom electric energy is or will be supplied by the cooperative for the purpose of, and otherwise to assist such persons in, wiring their premises and installing therein electric and plumbing fixtures, appliances, apparatus, and equipment of any and all kinds and character, and in connection therewith, to purchase, acquire, lease, sell, distribute, install, and repair such electric and plumbing fixtures, appliances, apparatus, and equipment, and to accept, or otherwise acquire, and to sell, assign, transfer, endorse, pledge, hypothecate, and otherwise dispose of notes, bonds, and other evidences of indebtedness and any and all types of security therefor; (f) To make loans to persons to whom electric energy is or will be supplied by the cooperative for the purpose of, and otherwise to assist such persons in, constructing, maintaining, and operating electric refrigeration plants; (g) To become a member in one or more other cooperatives or corporations or to own stock therein; (h) To construct, purchase, take, receive, lease as lessee, or otherwise acquire, and to own, hold, use, equip, maintain, and operate, and to sell, assign, transfer, convey, exchange, lease, as lessor, mortgage, pledge, or otherwise dispose of or encumber, electric transmission and distribution lines or systems, electric generating plants, electric refrigeration plants, lands, buildings, structures, dams, plants and equipment, and any and all kinds and classes of real or personal property whatsoever, which shall be deemed necessary, convenient, or appropriate to accomplish the purpose for which the cooperative is organized; (i) To purchase or otherwise acquire, and to own, hold, use, and exercise and to sell, assign, transfer, convey, mortgage, pledge, hypothecate, or otherwise dispose of or encumber, franchises, rights, privileges, licenses, rights of way, and easements; (j) To borrow money and otherwise contract indebtedness, and to issue notes, bonds, and other evidences of indebtedness therefor, and to secure the payment thereof by mortgage, pledge, deed of trust, or any other encumbrance upon any or all of its then-owned or after-acquired real or personal property, assets, franchises, revenues, or income; (k) To make any and all contracts necessary or convenient for the full exercise of the powers in this Act granted, including, but not limited to, contracts with any person, federal agency, or municipality, for the purchase or sale of electric energy and in connection with any such contract to stipulate and agree to such covenants, terms, and conditions as the board of trustees may deem appropriate, including covenants, terms, and conditions with respect to resale rates, financial and accounting methods, services, operation and maintenance practices, and, consistent with Section 20 of this Act, the manner of disposing of the revenues of the properties operated and maintained by the cooperative; (l) To construct, maintain, and operate electric transmission and distribution lines along, upon, under, and across all public thorough-

fares, including without limitation all roads, highways, streets, alleys, bridges, and causeways, and upon, under, and across all publicly-owned lands; provided, however, that the respective authorities having jurisdiction thereof shall consent thereto; (m) To exercise the power of eminent domain in the manner provided by the laws of this State for the exercise of that power by corporations constructing or operating electric transmission and distribution lines or systems; (n) To conduct its business and exercise any or all of its powers within or without this State; (o) To adopt, amend, and repeal by-laws; and (p) To do and perform any and all other acts and things, and to have and exercise any and all other powers which may be necessary, convenient, or appropriate to accomplish the purpose for which the cooperative is organized.

Section 4. The name of each cooperative shall include the words "Electric" and "Cooperative"; provided, however, such limitation shall not apply if, in an affidavit made by the president or vice-president of a cooperative and filed with the Secretary of State, it shall appear that the cooperative desires to transact business in another State and is precluded therefrom by reason of its name; and provided, further, that any corporation heretofore or hereafter organized under the Electric Membership Corporation Act (Act No. 45 of the Regular Session of 1935, approved February 7, 1935, as amended by Act No. 168 of the Regular Session of 1935, approved July 8, 1935), or such Act as from time to time further amended, which may be converted into a cooperative and become subject to this Act, as provided in Section 16 of this Act, or any foreign corporation transacting business in this State pursuant to Section 26 of this Act, may at its election retain the same corporate name which it had prior to such conversion or transaction of business. The name of a cooperative shall distinguish it from the name of any other corporation organized under the laws of, or authorized to transact business in, this State. The words "Electric" and "Cooperative" shall not both be used in the name of any corporation organized under the laws of, or authorized to transact business in, this State, except a cooperative or corporation transacting business in this State pursuant to the provisions of this Act.

Section 5. Five or more natural persons, or two or more cooperatives, may organize a cooperative in the manner hereinafter provided.

Section 6. (a) The articles of incorporation of a cooperative shall recite in the caption that they are executed pursuant to this Act, shall be signed and acknowledged by each of the incorporators, and shall state: (1) The name of the cooperative; (2) The address of its principal office; (3) The names and addresses of the incorporators; (4) The names and addresses of the persons who shall constitute its first board of trustees; and (5) Any provisions

not inconsistent with this Act deemed necessary or advisable for the conduct of its business and affairs. (b) Such articles of incorporation shall be submitted to the Secretary of State for filing as provided in this Act. (c) It shall not be necessary to set forth in the articles of incorporation of a cooperative the purpose for which it is organized or any of the corporate powers vested in a cooperative under this Act.

Section 7. The original by-laws of a cooperative shall be adopted by its board of trustees. Thereafter by-laws shall be adopted, amended, or repealed by its members. The by-laws shall set forth the rights and duties of members and trustees and may contain other provisions for the regulation and management of the affairs of the cooperative not inconsistent with this Act or with its articles of incorporation.

Section 8. (a) No person who is not an incorporator shall become a member of a cooperative unless such person shall agree to use electric energy furnished by the cooperative when such electric energy shall be available through its facilities. The by-laws of a cooperative may provide that any person, including an incorporator, shall cease to be a member thereof if he shall fail or refuse to use electric energy made available by the cooperative or if electric energy shall not be made available to such person by the cooperative within a specified time after such person shall have become a member thereof. Membership in the cooperative shall not be transferable, except as may be provided in the by-laws. The by-laws may prescribe additional qualifications and limitations in respect of membership. (b) An annual meeting of the members shall be held at such time as shall be provided in the by-laws. (c) Special meetings of the members may be called by the board of trustees, by any three trustees, by not less than ten per centum (10%) of the members, or by the president. (d) Meetings of members shall be held at such place as may be provided in the by-laws. In the absence of any such provision, all meetings shall be held in the city or town in which the principal office of the cooperative is located. (e) Except as hereinafter otherwise provided, written or printed notice stating the time and place of each meeting of members and, in the case of a special meeting, the purpose or purposes for which the meeting is called, shall be given to each member, either personally or by mail, not less than five (5) nor more than twenty-five (25) days before the date of the meeting. (f) Five per centum (5%) of all members present in person shall constitute a quorum for the transaction of business at all meetings of the members, unless the by-laws prescribe the presence of a greater percentage of the members for a quorum. If less than a quorum is present at any meeting, a majority of those present in person may adjourn the meeting from time to time without further notice. (g) Each member shall be entitled to one

vote on each matter submitted to a vote at a meeting. Voting shall be in person, but, if the by-laws so provide, may also be by proxy or by mail, or both. If the by-laws provide for voting by proxy or by mail, they shall also prescribe the conditions under which proxy or mail voting shall be exercised. No person shall vote as proxy for more than three (3) members at any meeting of the members.

Section 9. (a) The business and affairs of a cooperative shall be managed by a board of not less than five (5) trustees, each of whom shall be a member of the cooperative or of another cooperative which shall be a member thereof. The by-laws shall prescribe the number of trustees, their qualifications, other than those provided for in this Act, the manner of holding meetings of the board of trustees, and of the election of successors to trustees who shall resign, die, or otherwise be incapable of acting. The by-laws may also provide for the removal of trustees from office and for the election of their successors. Without approval of the members, trustees shall not receive any salaries for their services as trustees and, except in emergencies, shall not be employed by the cooperative in any capacity involving compensation. The by-laws may, however, provide that a fixed fee and expenses of attendance, if any, may be allowed to each trustee for attendance at each meeting of the board of trustees. (b) The trustees of a cooperative named in any articles of incorporation, consolidation, merger, or conversion, as the case may be, shall hold office until the next following annual meeting of the members or until their successors shall have been elected and qualified. At each annual meeting or, in case of failure to hold the annual meeting as specified in the by-laws, at a special meeting called for that purpose, the members shall elect trustees to hold office until the next following annual meeting of the members except as hereinafter otherwise provided. Each trustee shall hold office for the term for which he is elected or until his successor shall have been elected and qualified. (c) The by-laws may provide that, in lieu of electing the whole number of trustees annually, the trustees shall be divided into two classes at the first or any subsequent annual meeting, each class to be as nearly equal in number as possible, with the term of office of the trustees of the first class to expire at the next succeeding annual meeting and the term of the second class to expire at the second succeeding annual meeting. At each annual meeting after such classification a number of trustees equal to the number of the class whose term expires at the time of such meeting shall be elected to hold office until the second succeeding annual meeting. (d) A majority of the board of trustees shall constitute a quorum. (e) If a husband and wife hold joint membership in a cooperative, pursuant to appropriate by-law provision, either one, but not both, may be elected as a trustee.

(f) The board of trustees may exercise all of the powers of a cooperative except such as are conferred upon the members by this Act, or its articles of incorporation or by-laws.

Section 10. Notwithstanding any other provision of this Act, the by-laws may provide that the territory in which a cooperative supplies electric energy to its members shall be divided into two or more voting districts and that in respect of each such voting district (1) A designated number of trustees shall be elected by the members residing therein, or (2) A designated number of delegates shall be elected by such members, or (3) both such trustees and delegates shall be elected by such members. In any case the by-laws shall prescribe the manner in which such voting districts and the members thereof, and the delegates and trustees, if any, elected therefrom shall function and the powers of the delegates, which may include the power to elect trustees. No member at any voting district meeting and no delegate at any meeting shall vote by proxy or by mail.

Section 11. The officers of a cooperative shall consist of a president, vice-president, secretary, and treasurer, who shall be elected annually by and from the board of trustees. No person shall continue to hold any of the above offices after he shall have ceased to be a trustee. The offices of secretary and treasurer may be held by the same person. The board of trustees may also elect or appoint such other officers, agents, or employees as it shall deem necessary, or advisable and shall prescribe the powers and duties thereof. Any officer may be removed from office and his successor elected in the manner prescribed in the by-laws.

Section 12. (a) A cooperative may amend its articles of incorporation by complying with the following requirements: (1) The proposed amendment shall be first approved by the board of trustees and shall then be submitted to a vote of the members at any annual or special meeting thereof, the notice of which shall set forth the proposed amendment. The proposed amendment, with such changes as the members shall choose to make therein, shall be deemed to be approved on the affirmative vote of not less than two-thirds of those members voting thereon at such meeting; and (2) Upon such approval by the members, articles of amendment shall be executed and acknowledged on behalf of the cooperative by its president or vice-president, and its corporate seal shall be affixed thereto and attested by its secretary. The articles of amendment shall recite in the caption that they are executed pursuant to this Act and shall state: (a) the name of the cooperative; (b) the address of its principal office; (c) the date of the filing of its articles of incorporation in the office of the Secretary of State; and (d) the amendment to its articles of incorporation. The president or vice-president executing such articles of amendment shall also make and annex thereto an affidavit

stating that the provisions of this section were duly complied with. Such articles of amendment and affidavit shall be submitted to the Secretary of State for filing as provided in this Act. (b) A cooperative may, without amending its articles of incorporation, upon authorization of its board of trustees, change the location of its principal office by filing a certificate of change of principal office executed and acknowledged by its president or vice-president under its seal attested by its secretary, in the office of the Secretary of State and also in each county office in which its Articles of incorporation or any prior certificate of change of principal office of such cooperative has been filed. Such cooperative shall also, within thirty (30) days after the filing of such certificate of change of principal office in any county office, file therein certified copies of its articles of incorporation and all amendments thereto, if the same are not already on file therein.

Section 13. Any two or more cooperatives, each of which is hereinafter designated a "consolidating cooperative," may consolidate into a new cooperative, hereinafter designated the "new cooperative", by complying with the following requirements: (a) The proposition for the consolidation of the consolidating cooperatives into the new cooperative and proposed articles of consolidation to give effect thereto shall be first approved by the board of trustees of each consolidating cooperative. The proposed articles of consolidation shall recite in the caption that they are executed pursuant to this Act, and shall state: (1) The name of each consolidating cooperative, the address of its principal office, and the date of the filing of its articles of incorporation in the office of the Secretary of State; (2) The name of the new cooperative and the address of its principal office; (3) The names and addresses of the persons who shall constitute the first board of trustees of the new cooperative; (4) The terms and conditions of the consolidation and the mode of carrying the same into effect, including the manner and basis of converting memberships in each consolidating cooperative into memberships in the new cooperative and the issuance of certificates of membership in respect of such converted memberships; and (5) Any provisions not inconsistent with this Act deemed necessary or advisable for the conduct of the business and affairs of the new cooperative. (b) The proposition for the consolidation of the consolidating cooperatives into the new cooperative and the proposed articles of consolidation approved by the board of trustees of each consolidating cooperative shall then be submitted to a vote of the members thereof at any annual or special meeting thereof, the notice of which shall set forth full particulars concerning the proposed consolidation. The proposed consolidation and the proposed articles of consolidation shall be deemed to be approved upon the affirmative vote of not less than two-thirds of those members of each consolidating cooperative voting thereon

at such meeting. (c) Upon such approval by the members of the respective consolidating cooperatives, articles of consolidation in the form approved shall be executed and acknowledged on behalf of each consolidating cooperative by its president or vice-president and its seal shall be affixed thereto and attested by its secretary. The president or vice-president of each consolidating cooperative executing such articles of consolidation shall also make and annex thereto an affidavit stating that the provisions of this section were duly complied with by such cooperative. Such articles of consolidation and affidavits shall be submitted to the Secretary of State for filing as provided in this Act.

Section 14. Anyone or more cooperatives, each of which is hereinafter designated a "merging cooperative," may merge into another cooperative, hereinafter designated the "surviving cooperative", by complying with the following requirements: (a) The proposition for the merger of the merging cooperatives into the surviving cooperative and proposed articles of merger to give effect thereto shall be first approved by the board of trustees of each merging cooperative and by the board of trustees of the surviving cooperative. The proposed articles of merger shall recite in the caption that they are executed pursuant to this Act and shall state: (1) The name of each merging cooperative the address of its principal office, and the date of the filing of its articles of incorporation in the office of the Secretary of State; the name of the surviving cooperative and the address of its principal office; (3) A statement that the merging cooperatives elect to be merged into the surviving cooperatives; (4) The terms and conditions of the merger and the mode of carrying the same into effect, including the manner and basis of converting the memberships in the merging cooperative or cooperatives into memberships in the surviving cooperative and the issuance of certificates of membership in respect of such converted memberships; and (5) Any provisions not inconsistent with this Act deemed necessary or advisable for the conduct of the business and affairs of the surviving cooperative. (b) The proposition for the merger of the merging cooperatives into the surviving cooperative and the proposed articles of merger approved by the board of trustees of the respective cooperatives, parties to the proposed merger, shall then be submitted to a vote of the members of each such cooperative at any annual or special meeting thereof, the notice of which shall set forth full particulars concerning the proposed merger. The proposed merger and the proposed articles of merger shall be deemed to be approved upon the affirmative vote of not less than two-thirds of those members of each cooperative voting thereon at such meeting. (c) Upon such approval by the members of the respective cooperatives, parties to the proposed merger, articles of merger in the form approved shall be executed and acknowledged

on behalf of each such cooperative by its president or vice president and its seal shall be affixed thereto and attested by its secretary. The president or vice-president of each cooperative executing such articles of merger shall also make and annex thereto an affidavit stating that the provisions of this section were duly complied with by such cooperative. Such articles of merger and affidavits shall be submitted to the Secretary of State for filing as provided in this Act.

Section 15. The effect of consolidation or merger shall be as follows: (a) The several cooperatives, parties to the consolidation or merger, shall be a single cooperative, which, in the case of consolidation, shall be the new cooperative provided for in the articles of consolidation, and, in the case of a merger, shall be that cooperative designated in the articles of merger as the surviving cooperative, and the separate existence of all cooperatives, parties to the consolidation or merger, except the new or surviving cooperative, shall cease. (b) Such new or surviving cooperative shall have all the rights, privileges, immunities, and powers and shall be subject to all the duties and liabilities of a cooperative organized under the provisions of this Act, and shall possess all the rights, privileges, immunities and franchises, as well of a public as of a private nature, and all property, real and personal, applications for membership, all debts due on whatever account, and all other choses in action, of each of the consolidating or merging cooperatives, and furthermore all and every interest of, or belonging or due to, each of the cooperatives so consolidated or merged, shall be taken and deemed to be transferred to and vested in such new or surviving cooperative without further act or deed; and the title to any real estate, or any interest therein, under the laws of this State vested in any such cooperatives shall not revert or be in any way impaired by reason of such consolidation or merger. (c) Such new or surviving cooperative shall thenceforth be responsible and liable for all of the liabilities and obligations of each of the cooperatives so consolidated or merged, and any claims existing, or action or proceeding pending, by or against any of such cooperatives may be prosecuted as if such consolidation or merger had not taken place; but such new or surviving cooperative may be substituted in its place. (d) Neither the rights of creditors nor any liens upon the property of any of such cooperatives shall be impaired by such consolidation or merger. (e) In the case of a consolidation, the articles of consolidation shall be deemed to be the articles of incorporation of the new cooperative; and in the case of a merger, the articles of incorporation of the surviving cooperative shall be deemed to be amended to the extent, if any, that changes therein are provided for in the articles of merger.

Section 16. Any corporation organized under the laws of this

State for the purpose, among others, of supplying electric energy to its members may be converted into a cooperative and become subject to this Act with the same effect as if originally organized under this Act by complying with the following requirements: (a) The proposition for the conversion of such corporation into a cooperative and proposed articles of conversion to give effect thereto, shall be first approved by the board of trustees or the board of directors as the case may be, of such corporation. The proposed articles of conversion shall recite in the caption that they are executed pursuant to this Act and shall state: (1) The name of the corporation prior to its conversion into a cooperative; (2) The address of the principal office of such corporation. (3) The date of the filing of Articles of incorporation of such corporation in the Office of the Secretary of State; (4) The statute or statutes under which such corporation was organized; (5) The name assumed by such corporation; (6) A statement that such corporation elects to become a cooperative, general welfare, membership corporation subject to this Act; (7) The manner and basis of converting either memberships in or shares of stock of such corporation into memberships in the converted corporation; and (8) Any provisions not inconsistent with this Act deemed necessary or advisable for the conduct of the business and affairs. (b) The proposition for the conversion of such corporation into a cooperative and the proposed articles of conversion approved by the board of trustees or board of directors, as the case may be, of such corporation shall then be submitted to a vote of the members or stockholders, as the case may be, of such corporation at any duly held annual or special meeting thereof, the notice of which shall set forth full particulars concerning the proposed conversion. The proposition for the conversion of such corporation into a cooperative and the proposed articles of conversion, with such amendments thereto as the members or stockholders of such corporation shall choose to make, shall be deemed to be approved upon the affirmative vote of not less than two-thirds of those members of such corporation voting thereon at such meeting, or, if such corporation is a stock corporation, upon the affirmative vote of the holders of not less than two-thirds of the capital stock of such corporation represented at such meeting. (c) Upon such approval by the members or stockholders of such corporation, articles of conversion in the form approved by such members or stockholders shall be executed and acknowledged on behalf of such corporation by its president or vice-president, and its corporate seal shall be affixed thereto and attested by its Secretary. The president or vice-president executing such articles of conversion on behalf of such corporation shall also make and annex thereto an affidavit stating that the provisions of this section with respect to the approval of its trustees or directors and its members or stockholders, of the proposition for the

conversion of such corporation into a cooperative and such articles of conversion were duly complied with. Such articles of conversion and affidavit shall be submitted to the Secretary of State for filing as provided in this Act. (d) The terms "Articles of incorporation" as used in this Act shall be deemed to include the Articles of Conversion of a converted corporation.

Section 17. Notwithstanding any other provision of this Act, any proposition embodied in a petition signed by not less than ten per centum (10%) of all members of the cooperative, together with any document submitted with such petition to give effect to the proposition, shall be submitted to the members of a cooperative either at a special meeting of the members held within forty-five (45) days after the presentation of such petition or, if the date of the next annual meeting of members falls within ninety (90) days after such presentation or if the petition so requests, at such annual meeting. The approval of the board of trustees shall not be required in respect of any proposition or document submitted to the members pursuant to this Section and approved by them, but such proposition or document shall be subject to all other applicable provisions of this Act. Any affidavit or affidavits required to be filed with any such document pursuant to applicable provisions of this Act shall, in such case, be modified to show compliance with the provisions of this Section.

Section 18. (a) A cooperative which has not commenced business may dissolve voluntarily by delivering to the Secretary of State articles of dissolution, executed and acknowledged on behalf of the cooperative by a majority of the incorporators, which shall state: (1) The name of the cooperative; (2) The address of its principal office; (3) The date of its incorporation; (4) That the cooperative has not commenced business; (5) That the amount, if any, actually paid in on account of membership fees, less any part thereof disbursed for necessary expenses, has been returned to those entitled thereto and that all easements shall have been released to the grantors; (6) That no debt of the cooperative remains unpaid; and (7) That a majority of the incorporators elect that the cooperatives be dissolved. Such articles of dissolution shall be submitted to the Secretary of State for filing as provided in this Act. (b) A cooperative which has commenced business may dissolve voluntarily and wind up its affairs in the following manner: (1) The board of trustees shall first recommend that the cooperative be dissolved voluntarily and thereafter the proposition that the cooperative be dissolved shall be submitted to the members of the cooperative at any annual or special meeting the notice of which shall set forth such proposition. The proposed voluntarily dissolution shall be deemed to be approved upon the affirmative vote of not less than two-thirds of those members voting thereon at such meeting; (2) Upon such approval, a certi-

ificate of election to dissolve, hereinafter designated the "Certificate", shall be executed and acknowledged on behalf of the cooperative by its president or vice-president, and its corporate seal shall be affixed thereto and attested by its secretary. The certificate shall state: (a) the name of the cooperative; (b) the address of its principal office; (c) the names and addresses of its trustees; and (d) the total number of members of the cooperative and the number of members who voted for and against the voluntary dissolution of the cooperative. The president or vice-president executing the certificate shall also make and annex thereto an affidavit stating that the provisions of this subsection were duly complied with. Such certificate and affidavit shall be submitted to the Secretary of State for filing as provided in this Act; (3) Upon the filing of the certificate and affidavit by the Secretary of State, the cooperative shall cease to carry on its business except insofar as may be necessary for the winding up thereof, but its corporate existence shall continue until articles of dissolution have been filed by the Secretary of State; (4) After the filing of the certificate and affidavit by the Secretary of State, the board of trustees shall immediately cause notice of the winding up proceedings to be mailed to each known creditor and claimant and to be published once a week for two successive weeks in a newspaper of general circulation in the county in which the principal office of the cooperative is located; (5) The board of trustees shall have full power to wind up and settle the affairs of the cooperative and shall proceed to collect the debts owing to the cooperative, convey and dispose of its property and assets, pay, satisfy, and discharge its debts, obligations, and liabilities, and do all other things required to liquidate its business and affairs, and after paying or adequately providing for the payment of all its debts, obligations, and liabilities, shall distribute the remainder of its property and assets among its members in proportion to the aggregate patronage of each such member during the seven years next preceding the date of such filing of the certificate, or, if the cooperative shall not have been in existence for such period, during the period of its existence; and (6) When all debts, liabilities, and obligations of the cooperative have been paid and discharged or adequate provision shall have been made therefor, and all of the remaining property and assets of the cooperative shall have been distributed to the members pursuant to the provisions of this Section, the board of trustees shall authorize the execution of Articles of dissolution which shall thereupon be executed and acknowledged on behalf of the cooperative by its president or vice-president, and its corporate seal shall be affixed thereto and attested by its Secretary. Such articles of dissolution shall recite in the caption that they are executed pursuant to this Act and shall state: (a) the name of the cooperative; (b) the address of the principal office

of the cooperative; (c) that the cooperative has heretofore delivered to the Secretary of State a certificate of election to dissolve and the date on which the certificate was filed by the Secretary of State in the records of his office; (d) that all debts, obligations, and liabilities of the cooperative have been paid and discharged or that adequate provision has been made therefor; (e) that all the remaining property and assets of the cooperative have been distributed among the members in accordance with the provisions of this Section; and (f) that there are no actions or suits pending against the cooperative. The president or vice-president executing the articles of dissolution shall also make and annex thereto an affidavit stating that the provisions of this sub-section were duly complied with. Such articles of dissolution and affidavit, accompanied by proof of the publication required in this sub-section, shall be submitted to the Secretary of State for filing as provided in this Act.

Section 19. Articles of incorporation, amendment, consolidation, merger, conversion, or dissolution, as the case may be, when executed and acknowledged and accompanied by such affidavits as may be required by applicable provisions of this Act, shall be presented to the Secretary of State for filing in the records of his office. If the Secretary of State shall find that the articles presented conform to the requirements of this Act, he shall, upon the payment of the fees, file the articles so presented in the records of his office and upon such filing the incorporation, amendment, consolidation, merger, conversion, or dissolution provided therein shall be in effect. The Secretary of State immediately upon the filing in his office of any articles pursuant to this Act shall transmit a certified copy thereof to the Probate Judge of the county in which the principal office of each cooperative or corporation affected by such incorporation, amendment, consolidation, merger, conversion, or dissolution shall be located. The Probate Judge of any county, upon receipt of any such certified copy, shall file and index the same in the records of his office, but the failure of the Secretary of State or of a Probate Judge of a county to comply with the provisions of this Section shall not invalidate such articles. The provisions of this Section shall also apply to certificates of election to dissolve and affidavits of compliance executed pursuant to sub-section b(2) of Section 18 of this Act.

Section 20. Revenues of a cooperative for any fiscal year in excess of the amount thereof necessary: (a) To defray expenses of the cooperative and of the operation and maintenance of its facilities during such fiscal year; (b) To pay interest and principal obligations of the cooperative coming due in such fiscal year; (c) To finance or to provide a reserve for the financing of, the construction or acquisition by the cooperative of additional facilities to the extent determined by the board of trustees; (d) To

provide a reasonable reserve for working capital; (e) To provide a reserve for the payment of indebtedness of the cooperative maturing more than one (1) year after the date of the incurrence of such indebtedness in an amount not less than the total of the interest and principal payments in respect thereof required to be made during the next following fiscal year; and (f) To provide a fund for education in cooperation and for the dissemination of information concerning the effective use of electric energy and other services made available by the cooperative, shall be distributed by the cooperative to its members as, and in the manner, provided in the by-laws, either (1) as patronage refunds prorated in accordance with the patronage of the cooperative by the respective members paid for during such fiscal year, or (2) by way of general rate reductions, or (3) by combination of such methods. Nothing herein contained shall be construed to prohibit the payment by a cooperative of all or any part of its indebtedness prior to the date when the same shall become due.

Section 21. A cooperative may not sell, mortgage, lease or otherwise dispose of or incumber all or any substantial portion of its property unless such sale, mortgage, lease, or other disposition or encumbrance is authorized at a duly held meeting of the members thereof by the affirmative vote of not less than two-thirds of all of the members of the cooperative, and unless the notice of such proposed sale, mortgage, lease, or other disposition or encumbrance shall have been contained in the notice of the meeting; provided, however, that notwithstanding anything herein contained, or any other provisions of law, the board of trustees of a cooperative, without authorization by the members thereof, shall have full power and authority to authorize the execution and delivery of a mortgage or mortgages or a deed or deeds of trust upon, or the pledging or encumbering of, any or all of the property, assets, rights, privileges, licenses, franchises, and permits of the cooperative, whether acquired or to be acquired, and wherever situated, as well as the revenues and income therefrom all upon such terms and conditions as the board of trustees shall determine, to secure any indebtedness of the cooperative to the United States of America or any instrumentality or agency thereof.

Section 22. The private property of the members of a cooperative shall be exempt from execution for the debts of the cooperative, and no member shall be liable or responsible for any debts of the cooperative.

Section 23. Any mortgage, deed of trust, or other instrument executed by a cooperative or foreign corporation transacting business in this State pursuant to this Act, which, by its terms, creates a lien upon real and personal property then owned or after-acquired, and which is recorded as a mortgage of real property in any county in which such property is located or is to be located,

shall have the same force and effect as if the mortgage, deed of trust, or other instrument were also recorded or filed in the proper office in such county as a mortgage of personal property. Recordation of any such mortgage, deed of trust, or other instrument shall cause the lien thereof to attach to all after-acquired property of the mortgagor of the nature therein described as being mortgaged or pledged thereby immediately upon the acquisition of such property by the mortgagor, and such lien shall be superior to all claims of creditors of the mortgagor and purchasers of such property and to all other liens, except liens of prior record and tax liens, affecting such property.

Section 24. Whenever any notice is required to be given under the provisions of this Act or under the provisions of the articles of incorporation or by-laws of a cooperative, waiver thereof in writing, signed by the person or persons entitled to such notice, whether before or after the time fixed for the giving of such notice, shall be deemed equivalent to such notice. If a person or persons entitled to notice of a meeting shall attend such meeting, such attendance shall constitute a waiver of notice of the meeting, except in case the attendance is for the express purpose of objecting to the transaction of any business because the meeting shall not have been lawfully called or convened.

Section 25. No person who is authorized to take acknowledgments under the laws of this State shall be disqualified from taking acknowledgements of instruments executed in favor of a cooperative or to which it is a party, by reason of being an officer, director, or member of such cooperative.

Section 26. Any corporation or association organized under generally similar laws of another state shall be allowed to carry on any proper activities, operations and functions in this State upon compliance with the general regulations applicable to foreign corporations desiring to do business in this State.

Section 28. Cooperatives transacting business in this State pursuant to this Act shall be deemed to be general welfare cooperatives and exempt in all respects from the jurisdiction and control of the Public Service Commission of this State.

Section 29. Cooperatives and foreign corporations transacting business in this State pursuant to this Act shall be deemed to be electric membership cooperatives within the meaning of the Public Works Board Act (Act No. 65, Alabama General Laws, 1935.)

Section 30. The provisions of the Alabama Securities Act (Chapter 335, Article 12, and Chapter 220, Article 7, of the Code of Alabama, 1923 as amended by Act No. 481, Alabama General Laws, 1927, and by Act No. 656, Alabama General Laws, 1931) shall not apply to any note, bond, or other evidence of indebtedness issued by any cooperative transacting business in this State pursuant to this Act to the United States of America or any agency

or instrumentality thereof, or to any mortgage or deed of trust executed to secure the same. The provisions of said Securities Act shall not apply to the issuance of membership certificates by any cooperative.

Section 31. In this Act, unless the context otherwise requires: (a) "Person" includes any natural person, firm, association, corporation, business trust, partnership, federal agency, state or political subdivision or agency thereof, or any body politic; and (b) "Member" means each incorporator of a cooperative and each person admitted to and retaining membership therein, and shall include a husband and wife admitted to joint membership.

Section 32. This Act shall be construed liberally. The enumeration of any object, purpose, power, manner, method, or thing shall not be deemed to exclude like or similar objects, purposes, powers, manners, methods or things.

Section 33. If any provision of this Act, or the application of such provision to any person, circumstance or situation is held invalid, the remainder of the Act and the application of such provisions to other persons, circumstances or situations shall not be affected thereby.

Section 34. This Act shall be effective immediately upon its passage and approval.

Approved August 16, 1939.

No. 232)

(S. 185—Harris

AN ACT

To propose and to submit to the qualified voters of the State of Alabama, at an election to be held at the general election next succeeding the final adjournment of the present session of the Legislature of Alabama, an amendment to the Constitution of Alabama so as to authorize and empower the Legislature of Alabama from time to time by general or local laws to fix, regulate and alter the costs and charges of Courts, fees, commissions, allowances and salaries to be charged or received by any County official of Morgan County, including the method and basis of compensation of such officer, and to provide for the placing of any such officer on a salary, and to validate and confirm all acts of the regular or adjourned session of the Legislature of Alabama which convened in January, 1939, fixing or purporting to fix the compensation of any such officer on a salary basis.

Be it Enacted by the Legislature of Alabama:

1. The following amendment to the Constitution of Alabama is hereby proposed, and an election is hereby ordered by the qualified electors of the State of Alabama on the proposed amendment, and the day hereby appointed for said election is the day of the general election next succeeding the final adjournment of the present session of the Legislature of Alabama. The proposed amendment is

as follows: "The Legislature of Alabama may hereafter, from time to time by general or local laws, fix, regulate and alter the costs and charges of courts, fees, commissions, allowances and salaries to be charged or received by any county officer of Morgan County, including, without limiting the generality of the foregoing, the Judge of Probate, Tax Collector, Tax Assessor, Sheriff, Circuit Clerk, and Register, including the method and basis of compensation of such officer, and may provide for the placing of any such officer on a salary and that the fees, costs, and allowances collected by such officer be paid into the County treasury. All acts of the regular or adjourned session of the Legislature of Alabama which convened in January, 1939, fixing or purporting to fix the compensation of any such officer on a salary basis are hereby validated and confirmed."

2. Notice of the election hereby ordered, together with the amendment hereby proposed, shall be given by proclamation of the Governor, which shall be published in one newspaper in every County in the State once a week for at least four succeeding weeks next preceding the day hereby appointed for such election.

3. In the election hereby ordered to be held as herein provided, the qualified electors shall vote on such proposed amendment and on the official ballot provided for such election there shall be printed the following: "Shall the following be adopted as an amendment to the Constitution of Alabama? 'The Legislature of Alabama may hereafter, from time to time, by general or local laws, fix, regulate and alter the costs and charges of courts, fees, commissions, allowances and salaries to be charged or received by any county officer of Morgan County, including, without limiting the generality of the foregoing, the Judge of Probate, Tax Collector, Tax Assessor, Sheriff, Circuit Clerk, and Register, including the method and basis of compensation of such officer, and may provide for the placing of any such officer on a salary and that the fees, costs and allowances collected by such officer be paid into the County treasury. All acts of the regular or adjourned session of the Legislature of Alabama which convened in January, 1939, fixing or purporting to fix the compensation of any such officer on a salary basis are hereby validated and confirmed.' Yes——. No——."

4. The choice of the elector shall be indicated by a cross mark made by him or her opposite the words expressing his or her desire.

5. The officials for the election shall be appointed, and such election shall be held in all things in accordance with the laws governing general elections. The votes cast at such election shall be canvassed, tabulated and returns thereof shall be made to the Secretary of State and counted in the same manner as in elections for representatives in the Legislature of Alabama, and if it shall thereupon appear that a majority of the qualified electors who

voted at such election upon the proposed amendment voted in favor of the same, such amendment shall be valid to all intents and purposes as a part of the Constitution of the State of Alabama. The result of such election shall be made known by a proclamation of the Governor.

Passed by the Senate August 4, 1939.

Passed by the House of Representatives August 10, 1939.

No. 233)

(S. 221—Lusk

AN ACT

To fix the operative date in Alabama of any future population census so far as it may determine a classification under any law based on population ascertained by any such census.

Be it Enacted by the Legislature of Alabama:

Section 1. That the ninetieth day after the first day of the first regular legislative session held next after the publication by the Federal Government of the regular Federal Decennial population census for Alabama is hereby fixed as the date for any reclassification under any law requiring classification based on such said census.

Approved August 16, 1939.

No. 234)

(S. 279—Lusk

AN ACT

To provide for a commission form of government for all cities in Alabama which now have or may hereafter have a population of as much as twenty-two thousand and less than sixty thousand, according to the last or any subsequent Federal Census, by amending the title and body of an Act to provide that all cities in Alabama which now have or may hereafter have a population of as much as twenty-four thousand and less than forty thousand, according to the last Federal Census, or any such census which may be hereafter taken, shall be known and designated as Class "D" cities; to provide and create a Commission form of municipal government and to establish the same in all Class "D" cities of Alabama as herein defined; to abolish the offices of Mayor and Aldermen and otherwise provide for the creation and maintenance of said Commission form of Government; to provide for the selection and election of a chairman and two associate commissioners in lieu of mayor and aldermen; to prescribe limitations and qualifications for officers and employees and penalties for violation of the provisions of this Act. To fix the Duties, powers and Compensation of the Board of Commissioners—approved March 6, 1931, (1931 Acts, p. 174), and to provide that the title and body of this Act and the title and body of the Act herein referred to as amended shall be applicable to all cities in Alabama which now have or may hereafter have a population of as much as twenty-two thousand and less than sixty thousand, according to the last

or any subsequent Federal Census, and to increase by this Act and the amendment to the Act herein referred to the duties and compensation of the members of the Board of Commissioners of such cities, and to further provide that the organization, operation, and tenure of office of Commissioners of all cities now operating under the provisions of said Act herein amended or any amendment thereto heretofore made shall remain and continue unaffected by this Act, and to further provide that no General Law heretofore enacted based upon a population classification shall, by reason of any change in the status of any city coming under the operation of this Act by the 1940 Federal Census or any subsequent Census, operate in any way to alter or change the compensation, duties, authority, formation, or jurisdiction of any of the commissioners of the cities coming within the terms of this Act; and to further provide that if any of the provisions of this Act shall be held to be unconstitutional it shall not affect the validity of any of the provisions hereof.

Be it Enacted by the Legislature of Alabama:

Section 1. That the title of an Act approved March 6, 1931, (1931 Acts, p. 174), entitled "An Act to provide that all cities in Alabama which now have or may hereafter have a population of as much as twenty-four thousand and less than forty thousand, according to the last Federal Census, or any such census which may be hereafter taken, shall be known and designated as Class "D" cities; to provide and create a Commission form of municipal government and to establish the same in all Class "D" cities of Alabama as herein defined; to abolish the offices of Mayor and Aldermen and otherwise provide for the creation and maintenance of said Commission form of government; to provide for the selection and election of a chairman and two associate commissioners in lieu of mayor and aldermen; to prescribe limitations and qualifications for officers and employees and penalties for violation of the provisions of this Act. To fix the Duties, powers and Compensation of the Board of Commissioners", be and the same is hereby amended so that the title of said Act shall read as follows: "An Act to provide that all cities in Alabama which now have or may hereafter have a population of as much as twenty-two thousand and less than sixty thousand, according to the last Federal Census, or any subsequent census which may be hereafter taken, shall be known and designated as Class "D" cities; to provide and create a Commission form of municipal government and to establish the same in all Class "D" cities of Alabama as herein defined; to abolish the offices of Mayor and Aldermen and otherwise provide for the creation and maintenance of said Commission form of government; to provide for the selection and election of a chairman and two associate commissioners in lieu of mayor and aldermen; to prescribe limitations and qualifications for officers and employees and penalties for violation of the provisions of this Act. To Fix the Duties, powers and Compensation of the Board of Commis-

sioners; to increase the duties and compensation of the Board of Commissioners of such cities; to further provide that the organization, operation, and tenure of office of commissioners of all cities now operating under the provisions of this Act, or any amendment heretofore made, shall remain and continue unaffected by this Act; to further provide that no General Law heretofore enacted upon a population classification shall, by reason of a change in the status of any city coming under the operation of this Act by the 1940 Federal Census or any subsequent census, operate in any way to alter or change the compensation, duties, authority, formation, or jurisdiction of the Board of Commissioners of any of the cities provided for in this Act; and to further provide that if any part of this Act is held unconstitutional it shall not affect the validity of any of the other provisions hereof."

Section 2. Section One of the Act described in Section One of this Act is hereby amended to read as follows: "All cities in the State of Alabama which now have a population of as much as twenty-two thousand and less than sixty thousand according to the last Federal Census, or which hereafter shall have such a population according to any such census that may hereafter be taken, shall be known as Class 'D' cities and the provisions of this Act shall apply only to such cities".

Section 3. Section 2 of the Act described in Section 1 hereof is amended to read as follows: "That upon the passage and approval by the Governor of this Act, the offices of mayor and aldermen in Class "D" cities be and the same are hereby abolished, and there is created in lieu thereof a Commission Form of Government, which shall consist of a Chairman and two Associate Commissioners who shall be appointed by the Governor of Alabama, and whose term of office shall be until the first Tuesday in October, 1942. On the first Tuesday in September, 1942, and every four years thereafter, and as herein provided, a Chairman and two Associate Commissioners shall be elected, and the General Election Laws of Alabama shall govern the conduct of such elections except as otherwise provided herein. Vacancies in said offices before the expiration thereof shall be filled by the remaining Commissioners and shall hold office for such unexpired term."

Section 4. Section 3 of the Act described in Section 1 hereof is amended to read as follows: "The territorial limits of such city shall remain the same as under its former organization, except that all divisions into wards of such municipality shall be abolished, and all commissioners shall be elected at large."

Section 5. Section 4 of the Act described in Section 1 hereof is amended to read as follows: "The Chairman and the Associate Commissioners provided for in this Act shall be known collectively as the 'Board of Commissioners of the City of _____',

(name of the city to be inserted), and it shall have the powers hereinafter provided. The first Commissioners appointed under the provisions of the Act shall qualify for office in the manner prescribed by this Act and shall take office within ten days after their appointment, or as soon thereafter as they may have qualified; and as soon as they have qualified for office in any such City, then such City shall at that time and thereby become organized under the Commission Form of Government provided for by this Act, and said Commissioners shall forthwith take office and enter upon their duties and assume the duties of such office."

Section 6. Section 5 of the Act described in Section 1 hereof is amended to read as follows: "Such Board of Commissioners shall be municipal officers only, and shall have, possess and exercise the municipal powers, legislative, executive and judicial, now or hereafter conferred upon municipalities and governing bodies thereof. All laws governing such city, and not inconsistent with the provisions of this Act, shall apply to and govern said city after it shall become organized under the commission form of government provided by this Act. All laws, ordinances and resolutions lawfully passed and in force in any such city under its former organization not inconsistent with the provisions of this Act, shall remain in force until altered or repealed, according to provisions of this Act. All employees of said city and all officials except those whose terms of office are abolished by this Act shall continue in office until otherwise provided by said board of commissioners."

Section 7. Section 6 of the Act described in Section 1 hereof is amended to read as follows: "In such Class 'D' Cities the management and control of the public schools therein shall be vested in a Board of Education as provided by law."

Section 8. Section 7 of the Act described in Section 1 hereof is amended to read as follows: "Every Class 'D' City shall be governed and managed by the Board of Commissioners as herein provided, and each and every officer and employee of such city except the health officer and such person as may be employed by him to enforce quarantine, and such other officers and employees as are designated in this Act, shall be selected and employed by the said Board of Commissioners, under its direction, and all salaries and wages paid by said City except as otherwise provided by the terms of this Act, shall be fixed by said Board of Commissioners; where not otherwise provided in this Act, the Commissioners shall prescribe and may at any time change the powers, duties and titles of all subordinate officers and employees of said city, except the title of city health officer, all of whom except those herein otherwise specified shall hold office and be removable at the pleasure of the Board of Commissioners."

Section 9. Section 8 of the Act described in Section 1 hereof is amended to read as follows: "(a) The Chairman of the Board shall have direct supervision over the department of public affairs, public safety, public health, city buildings and property, shall be chairman of all meetings of the Board and shall have general supervision over all matters pertaining to the government of such city; (b) One associate member shall have supervision of the departments of streets, parks, public improvements and public utilities; (c) One associate member shall have supervision over the department of finance and taxation, accounts and accounting, budget and appropriation. The powers and duties pertaining to each of said departments shall be fixed by the Board of Commissioners, and altered from time to time by them as they may deem best. Provided the administration of each department shall be under the supervision and control of the Board of Commissioners as a whole, and such Board shall be responsible therefor."

Section 10. Section 9 of the Act described in Section 1 hereof is amended to read as follows: "Said Board of Commissioners shall hold regular public meetings on Tuesday of each and every week at some regular hour to be fixed by said board from time to time, and publicly announced by it, and it may hold such adjourned, called and other meetings as may be necessary or convenient. The President of the Board, when present, shall preside at all meetings of said board, but shall have no veto power. A majority of the total number of members of said Board shall constitute a quorum for the transaction of any and every business to be done by said Board, and for the exercise of any and every power conferred upon it; and the affirmative vote of a majority of the total number of members of said board shall be necessary and sufficient for the passage of any resolution by law or ordinance, for the transaction of any business of any sort by said Board or the exercise of any of the powers conferred upon it by the terms of this Act or that may hereafter be conferred upon it by law. This provision shall not be construed, however, so as to prevent the said board from delegating or assigning to one or more of its members, or to such boards, commissioners, officers or employees as may be created or selected by it, the performance of such executive or judicial duties and powers that are by this Act vested in said Board of Commissioners, as may be "necessary or convenient, provided the same is done by resolution, by-law or ordinance duly enacted according to the terms of this Act where not otherwise provided. All meetings of the Board shall be open to the public. No resolution, by-law or ordinance granting any franchise, appropriating any money for any purpose, providing for any public improvements enacting any regulations concerning the public comfort, public safety or public health or of any other general or

permanent nature shall be enacted, except at a regular or adjourned public meeting of said Board, provided that a meeting of the Board of Commissioners may be called at any time to consider and act upon an emergency that involves the public safety or public health when not otherwise herein provided. Every motion, resolution or ordinance introduced at any and every such meeting shall be reduced to writing and read before any vote thereon shall be taken and the yeas and nays thereon shall be recorded, a record of the proceedings of every such meeting shall be kept in a well bound book and every resolution and ordinance passed by the Board of Commissioners must be recorded in such book and a record of the proceedings of the meeting be signed by at least two of the Commissioners before the action taken shall be effective, such record shall be kept available for inspection by all citizens of such city, at all reasonable times."

Section 11. Section 10 of the Act described in Section 1 hereof is amended to read as follows: "No ordinance granting any franchise, lease or right to use the public highways, or public property of any City organized under the provisions of this Act, shall take effect and be in force until thirty days after the final enactment of the same by the Board of Commissioners and publication of said ordinance as provided by law, which publication shall be made at the expense of the persons, firm or corporation applying for said grant."

Section 12. Section 11 of the Act described in Section 1 hereof is amended to read as follows: "In all elections each office of Commissioners to be filed shall be designated, the associate commissioners being designated as associate commissioner numbers one and two respectively, and this shall be shown on the ballot prepared for such election. In filing statement of candidacy each candidate shall designate for which place he desires election. At every election each voter shall vote for only one candidate for each office and the candidate receiving the highest number of votes for such office shall be elected, provided he receives a majority "of all votes cast for such office. In case no one of such candidates shall receive a majority of all such votes cast for the office for which he is a candidate another election shall be held on the same day of the following week for said officer at which the two candidates receiving the highest number of votes at the initial election for said office shall be voted for. The candidate receiving the highest number of votes at such final election shall be declared elected. Candidates declared elected shall qualify and take oath of office on the first Monday in October next following said election."

Section 13. Section 12 of the Act described in Section 1 hereof is amended to read as follows: "The Chairman of such Commission

is required to devote his entire time to the duties of his office and shall maintain an office at the city hall and be present thereat during reasonable hours when not otherwise absent therefrom on other duties of the City, and on account of such increased duties and requirements herein provided for, hereafter the salary of the Chairman of the Commission shall be Forty-Two Hundred (\$4200) Dollars per Annum; the two Associate Commissioners shall be required to make bi-monthly inspections of the various departments and the property of the city, including the streets, sewers and other phases of the city within their respective departments and on account of such increased duties hereafter the salaries of the two Associate Commissioners shall be Twenty-One Hundred (\$2100.) Dollars each per annum; all such salaries to be divided into twelve equal monthly payments to be paid out of the general funds of said city on the first day of each month. The payment of all funds out of the treasury shall be by warrants signed by the Chairman of such Board, but no funds may be paid out for any purpose except by resolution or ordinance duly passed making such appropriation. The Board may elect one of their number to act as Recorder or Municipal Judge who shall try all cases arising from the violation of City ordinances or other laws over which such courts may have jurisdiction."

Section 14. Section 13 of the Act described in Section 1 hereof is amended to read as follows: "Each Commissioner shall before entering upon the duties of his office, give a good and sufficient bond, which shall be executed by a Bonding Company authorized to do business in Alabama, payable to and for the use and benefit of any such city in the sum of Ten Thousand Dollars, conditioned upon the faithful discharge of his duties, and that he will save such city harmless from all loss caused by his neglect of duty, misfeasance in office or for the willful expenditure of any moneys of such city, in violation of law, and said bond before being accepted shall be approved by the Judge of Probate in and for the County wherein such city is situated. The premiums on such bond shall be paid out of the city treasury. No member of the Commission nor any person holding an office of profit under them, shall hold any office of profit or trust under the law of any State of the United States, or hold any County office; nor shall any Commissioner ever be elected or appointed to any office created by or the compensation of which was increased or fixed by the Commission, while he was a member thereof within two years therefrom."

Section 15. Section 14 of the Act described in Section 1 hereof is amended to read as follows: "No officer or employee elected or appointed by any such city shall be interested, directly or indirectly, in any contract for work or material, for the profits thereof, or service to be furnished or performed for the city. No person

who is related by consanguinity or affinity nearer than the fifth degree to any commissioner shall be allowed employment by election or appointment or receive compensation for services rendered such city. Any person violating any provision of this section shall upon conviction be guilty of a misdemeanor and any elective officer violating this section shall be guilty of malfeasance in office and shall be punished as provided by the laws of the State of Alabama. Any elective officer shall be subject to all the pains and penalties and enjoy all the privileges and immunities as provided by the Constitution and General Laws of the State of Alabama applicable to such officials. The Commissioners shall be qualified electors residing within the corporate limits of such City."

Section 16. Section 15 of the Act described in Section 1 hereof is amended to read as follows: "At the end of each fiscal year the books and accounts of such City shall be audited by a reputable, disinterested and certified accountant and such report shall be certified to by the City Clerk and attested by the members of the Commission and published in pamphlet form, and printed copies furnished to newspapers of city and to persons who apply therefor. The Governor is authorized at any time to have all the books and accounts of such city examined by the State Examiner of public accounts, the cost of such examination shall be paid by such City upon the presentation to the Commissioner of a duly verified statement of such expense made by such examiner of public accounts, approved by the Governor."

Section 17. Section 16 of the Act described in Section 1 hereof is amended to read as follows: "Except as otherwise provided in this Act, all General and Local laws and parts of laws in conflict with this Act, be and the same are hereby repealed. This Act shall take effect immediately upon its passage and approval by the Governor."

Section 18. The organization and operation of all cities now operating under the provisions of the statute hereby amended, and the tenure of office of the Commissioners of said cities, shall remain unaffected by this amendment unless otherwise expressly provided by this amendment.

Section 19. No general law heretofore enacted based upon a population classification shall by reason of a change in the status of any Class "D" City coming under the operation of this Act by the 1940 Federal Census, or any subsequent census, operate in any way to alter or change the compensation, duties, authority, formation or jurisdiction of any of the Class "D" Cities hereby created and provided for in this Act.

Section 20. The provisions of this Act, and each separate paragraph, phrase or sentence, shall be separable, and if any of such provisions herein, or any part thereof, shall be held to be uncon-

stitutional, it shall not affect the validity of any and all of the remaining provisions hereof.

Approved August 16, 1939.

No. 235)

(H. 340—Langan

AN ACT

To amend Section 7887 of Chapter 292 of the 1923 Code of Alabama, regarding exemptions.

Be it Enacted by the Legislature of Alabama:

That Section 7887 of Chapter 292 of the Code of Alabama of 1923 by amended to read as follows: "Section 7887: EXEMPTION OF WAGES OF EMPLOYEES—The wages, salaries, or other compensation of laborers, or employes, residents of this State, for personal services to the amount of Twenty-five Dollars' per month shall also be exempt from levy under writs of garnishment or other process for the collection of debts contracted, or judgments rendered in torts, and when the fact of such indebtedness is disclosed by the answer of the garnishee the levy shall be void and the same shall be dismissed by the court before whom filed, immediately upon the answer of the garnishee being filed, and should the plaintiff in garnishment contest the answer of the garnishee, as now provided by law in such cases, and prove to the court the deficiency or untruth of the garnishee's answer then the court shall render judgment against the garnishee for such amount as would have been subject to an order of condemnation had the said sum not been released to the defendant; that any local or special laws in conflict herewith are hereby expressly repealed.

Approved August 22, 1939.

No. 236)

(H. 446—Jones

AN ACT

Validating, ratifying, approving and confirming certain bonds and other instruments or obligations heretofore issued, and the proceedings taken for the issuance thereof; and validating, ratifying, approving and confirming certain proceedings for the issuance of bonds and other instruments or obligations heretofore taken by towns, cities, counties, boards of education, school districts, educational institutions, The Alabama Polytechnic Institute, The Board of Trustees of the University of Alabama, and the Board of Education of the State of Alabama, and declaring the sufficiency of such proceedings.

Be it Enacted by the Legislature of Alabama:

Section 1. That this Act may be cited as "The 1939 Validating Act."

Section 2. That the following terms wherever used or referred to in this Act, shall have the following meaning: (a) The term "public body" means any town, city, county, town board of education, city board of education, county board of education, school district, educational institution, The Alabama Polytechnic Institute, The Board of Trustees of the University of Alabama, or the Board of Education of the State of Alabama. (b) The term "bonds" includes bonds or other instruments or obligations evidencing or representing indebtedness, or evidencing or representing the borrowing of money, or evidencing or representing a charge, lien or encumbrance on specific revenues, income or property of a public body, or all instruments or obligations payable from a special fund, whether or not such bonds or other instruments or obligations are negotiable.

Section 3. That all bonds heretofore issued for the purpose of financing or aiding in the financing of any public works project, including all proceedings for the authorization and issuance of such bonds, and the sale, execution, and delivery thereof, are hereby validated, ratified, approved and confirmed, notwithstanding any lack of power (other than constitutional) of such public body or the governing body or commission or officers thereof, to authorize and issue such bonds, or to sell, execute or deliver the same, and notwithstanding any defects or irregularities (other than constitutional) in such proceedings, or in such sale, execution or delivery and notwithstanding that such governing body or commission or officers may not have been elected, appointed or qualified for the offices they purported to hold and notwithstanding the fact that the person or persons who signed such bonds may not have been officers of the public body on either the date of the signing or on the date of the delivery thereof; and such bonds are and shall be binding, legal, valid and enforceable obligations of such public body.

Section 4. That all proceedings, which have been taken prior to the date this Act takes effect, for the purpose of financing or aiding in the financing of any public works project, including all proceedings for the authorization, issuance and approval of bonds, and for the sale, execution and delivery thereof, are hereby validated, ratified, approved and confirmed, notwithstanding any lack of power (other than constitutional) of such public body or the governing body or commission of officers thereof, to authorize and issue such bonds, or to sell, execute or deliver the same, and notwithstanding any defects or irregularities (other than constitutional) in such proceedings, and notwithstanding that such governing body may not have been elected, appointed or qualified for the offices they purported to hold; and such proceedings are hereby determined and declared to be, and they shall be sufficient authority for the issuance of bonds referred to therein, without the necessity for any further proceedings or approvals, and such bonds,

when delivered and paid for in accordance with such proceedings, shall be binding, legal, valid and enforceable obligations of such public body.

Section 6. This Act shall be effective immediately upon its passage and approval.

Approved August 18, 1939.

No. 237)

(S. 151—Malone

AN ACT

To further regulate and provide for the payment of pensions to Confederate Soldiers, Sailors and their widows and provide for the time when such payments are to be made.

Be it Enacted by the Legislature of Alabama:

Section 1. That hereafter, out of the One-Mill tax now collected for the benefit of Confederate Soldiers, Sailors and their widows, there shall be paid from the State Treasury to said Confederate Soldiers, Sailors and their widows whose names are now or hereafter placed on the pension rolls of the State under existing laws, the sum of fifty dollars (\$50.00) per month to each Confederate Soldier; to each widow of the first class as now provided by law of any such Confederate Soldier or Sailor the sum of thirty dollars (\$30.00) per month; to each widow of the second class as now provided by law of any such Confederate Soldier or Sailor the sum of Twenty-five dollars (\$25.00) per month; to each widow of the third class as now provided by law of any such Confederate Soldier or Sailor the sum of Twenty Dollars (\$20.00) per month; said payments to be made on the first day of each month on warrants issued as now provided by law for the issuance of pension warrants to Confederate Soldiers, Sailors and their widows.

Section 2. That the pensions herein provided for shall be paid out of the funds arising from the collection of the State's One-Mill Soldiers' Tax and shall be in lieu of all other pensions now provided for by law for Confederate Soldiers, Sailors and their widows.

Section 3. That it shall be the duty of the local Public Welfare Department in the several counties of the State to see to it that the pension warrants are delivered.

Section 4. That all laws and parts of laws in conflict herewith be and the same are hereby repealed.

Section 5. That this Act shall go into effect on the first day of October, 1939.

Approved August 22, 1939.

No. 239)

(S. 238—Tucker

AN ACT

In relation to the educational system of Alabama: and to make annual appropriations for the support, maintenance, and development of public education in Alabama for each of the fiscal years ending September 30, 1940, September 30, 1941, September 30, 1942, and September 30, 1943, including all schools, agencies, services, and institutions under the general or direct control or subject to the rules and regulations of the State Board of Education, the Board of Trustees of Alabama College, the Board of Trustees of the Alabama Polytechnic Institute, and the Board of Trustees of the University of Alabama.

Be it Enacted by the Legislature of Alabama:

Section 1. PUBLIC SCHOOL FUND. That there is hereby appropriated out of the State Treasury for each of the fiscal years ending September 30, 1940, September 30, 1941, September 30, 1942, and September 30, 1943, the amounts hereinafter set forth, which together shall comprise the Public School Fund to be used for the support and maintenance of the public schools, and this fund shall be apportioned in accordance with the provisions of the Constitution and of the laws providing for such apportionment: (a) Interest on 16th Section Lands, estimated \$140,103.91, (b) Interest on School Indemnity Lands, estimated \$21,056.08, (c) Interest on valueless 16th Section Lands \$5,825.47, (d) Interest on Surplus Revenue \$26,763.47, (e) Interest on James Wallace Fund \$275.25, (f) Special appropriation for Public Schools \$500,000.00, (g) All funds derived from the levy of the special annual tax of thirty cents on each one hundred dollars (\$100.00) of taxable property in this State for the support and maintenance of the public schools, and from other funds mentioned and enumerated in Sections 257, 258 and 260 of the Constitution of 1901; provided that not more than four percent of all funds appropriated in this Section shall be used or expended otherwise than for the payment of teachers employed in such schools.

Section 2. REVOLVING FUND. That there is hereby appropriated to the State Board of Education out of the State Treasury for each of the fiscal years ending September 30, 1940, September 30, 1941, September 30, 1942, and September 30, 1943, the sum of \$100,000.00 to be known as the Revolving Fund, and to be expended to relieve emergency conditions that arise in connection with the operation of public schools, or in otherwise aiding the public schools, in accordance with the provisions of statutes relating to the expenditures of such fund.

Section 3. MINIMUM PROGRAM FUND. That in addition to all other funds appropriated for the public elementary and high schools of the State, there is hereby appropriated to the State Board of Education out of the State Treasury for the fiscal year ending September 30, 1940, the sum of \$8,010,016.00, and for each

of the fiscal years ending September 30, 1941, September 30, 1942, and September 30, 1943, the sum of \$8,005,016.00 to be known as the Minimum Program Fund, which, in accordance with the statutes and regulations of the State Board of Education relating to the expenditures of such fund, shall be used for providing a minimum term and for the equalization of educational opportunity in the public schools of the State. Provided further, that these funds shall be used for the support of a minimum school term of eight months, except that the State Board of Education shall be authorized to make full allotments of funds to any county and city school systems if, in the judgment of the State Board of Education, local conditions in said school systems are such as to warrant the operation of schools for a less term than the minimum prescribed above, but, provided, however, that in no case shall a term of less than seven months in tax districts be approved, and, provided further, that capital outlay allotments shall be made available to city school systems on the same basis as to county school systems. The Minimum Program Fund shall also include any other appropriations or funds which may be designated by the Legislature as a part of the Minimum Program Fund.

Section 4. FREE TEXT BOOKS. That there is hereby appropriated to the State Board of Education out of the State Treasury for each of the fiscal years ending September 30, 1940, September 30, 1941, September 30, 1942, and September 30, 1943, the sum of \$200,000.00, to be known as the Free Text Book Fund, which shall be expended for the purpose of furnishing free text books in the public elementary schools of the State, in accordance with the statutes and regulations of the State Board of Education in regard thereto.

Section 5. That there is hereby appropriated to the State Board of Education out of the State Treasury for each of the fiscal years ending September 30, 1940, September 30, 1941, September 30, 1942, and September 30, 1943, for the maintenance and support of the schools, agencies, services, and institutions under its control, the following amounts: (a) For the Illiteracy Fund \$12,500.00, (b) For the Teacher Training Equalization Fund \$145,000 (c) For the Special Agencies: (1) Vocational Education \$340,000.00 (2) Secondary Agricultural School Demonstration Farms, \$13,000.00. Provided, that if and when said demonstration farms are abolished or discontinued, any unexpended balance of the appropriation to them, or any surplus over and above the amount necessary to operate said demonstration farms, whether any or all of them are abolished or discontinued or not, shall accrue to the fund for Vocational Education, such balance to be in addition to the amount herein appropriated for Vocational Education. (3) Physical Restoration of Crippled Children \$55,000.00, (4) Civilian Rehabilitation \$55,000.00, (d) For the Alabama School of Trades and Industries

\$42,500.00, (e) For State Teachers Colleges: (1) State Teachers College at Florence \$67,500.00, (2) State Teachers College at Jacksonville \$67,500.00, (3) State Teachers College at Livingston \$67,500.00, (4) State Teachers College at Troy \$67,500.00, (5) State Teachers College at Montgomery \$67,500.00, (f) For Agricultural and Mechanical Institute at Normal \$25,000.00. For Agricultural and Mechanical Institute at Normal upon the recommendation of the State Superintendent of Education, with the approval of the Governor \$5,000.00 additional for each of the fiscal years ending September 30, 1941, September 30, 1942, and September 30, 1943. (g) For Daphne Normal School at Daphne, for the fiscal year ending September 30, 1940 only \$10,000.00.

Section 6. ALABAMA COLLEGE. That there is hereby appropriated out of the State Treasury to Alabama College for each of the fiscal years ending September 30, 1940, September 30, 1941, September 30, 1942, and September 30, 1943, the sum of \$205,119.98, as provided for in existing statutes (to be devoted to the same purposes and in the same proportions as provided in existing statutes), and the additional sum of \$25,000.00 for further support and maintenance, and in addition thereto the sum of \$15,400.00, which is appropriated in lieu of the allotment heretofore made to Alabama College by the State Board of Education from the Teacher Training Equalization Fund.

Section 7. UNIVERSITY OF ALABAMA. That there is hereby appropriated out of the State Treasury to the University of Alabama for each of the fiscal years ending September 30, 1940, September 30, 1941, September 30, 1942, and September 30, 1943, the sum of \$393,899.05, as provided for in existing statutes (to be devoted to the same purposes and in the same proportions as provided in existing statutes), and the additional sum of \$150,000.00 for further support and maintenance, and in addition thereto the sum of \$27,300.00, which is appropriated in lieu of the allotment heretofore made to the University of Alabama by the State Board of Education from the Teacher Training Equalization Fund:

Section 8. ALABAMA POLYTECHNIC INSTITUTE. That there is hereby appropriated out of the State Treasury to the Alabama Polytechnic Institute for each of the fiscal years ending September 30, 1940, September 30, 1941, September 30, 1942, and September 30, 1943, the sum of \$332,399.05, as provided for in existing statutes (to be devoted to the same purposes and in the same proportions as provided in existing statutes), and the additional sum of \$125,000.00 for further support and maintenance, and in addition thereto the sum of \$27,300.00, which is appropriated in lieu of the allotment heretofore made to Alabama Polytechnic Institute by the State Board of Education from the Teacher Training Equalization Fund.

Section 9. ALABAMA POLYTECHNIC INSTITUTE FOR

EXTENSION WORK IN AGRICULTURE AND HOME ECONOMICS. (a) That, in order to aid in diffusing among the people of Alabama in the several Counties thereof, useful and practical information on subjects relating to Agriculture and home economics; to provide for the continuance and improvement of farm and home demonstration work; to provide for the training of men and women leaders; to provide for organizing clubs of farm people, including men, women, boys, and girls; for the improvement of agriculture and farm home life: to promote the welfare of the rural districts by other forms of extension work in agriculture and home economics: and to aid in securing for expenditure in Alabama the full amounts of Federal funds appropriated conditionally to Alabama by the Congress of the United States, under an Act approved May 8, 1914, and generally known as the Smith-Lever Act for Extension Work in Agriculture and Home Economics, and other supplementary and related Acts for Extension Work in Agriculture and Home Economics, there is hereby appropriated to the Alabama Polytechnic Institute out of the State Treasury for each of the fiscal years ending September 30, 1940, September 30, 1941, September 30, 1942, and September 30, 1943, the sum of \$220,000.00 (b) That the funds appropriated in this section shall be expended under the general direction of the Board of Trustees of the Alabama Polytechnic Institute, through its Extension Service, for paying any and all bills and other items in carrying out the aims and purposes of this Act and in such manner as to aid in securing for Extension Work in Alabama in any year the maximum amounts of all Federal funds conditionally appropriated for that year by an Act of Congress of the United States approved May 8, 1914, and generally known as the Smith-Lever Act for Extension Work in Agriculture and Home economics, and other Federal Acts supplementary and related thereto.

Section 10. ALABAMA POLYTECHNIC INSTITUTE FOR AGRICULTURAL RESEARCH. (a) That there is hereby appropriated out of the State Treasury for each of the fiscal years ending September 30, 1940, September 30, 1941, September 30, 1942, and September 30, 1943, to the Alabama Agricultural Experiment Station of the Alabama Polytechnic Institute for the support of the work of the main station at Auburn, and for cooperative experiments with farmers, the sum of \$71,000.00. (b) That there is hereby appropriated out of the State Treasury for each of the fiscal years ending September 30, 1940, September 30, 1941, September 30, 1942, and September 30, 1943, to the Tennessee Valley Branch Station located at Belle Mina in Limestone County, the sum of \$12,500.00. (c) That there is hereby appropriated out of the State Treasury for each of the fiscal years ending September 30, 1940, September 30, 1941, September 30, 1942, and September 30, 1943, to the Sand Mountain Branch Station located at Crossville in

DeKalb County, the sum of \$12,500.00. (d) That there is hereby appropriated out of the State Treasury for each of the fiscal years ending September 30, 1940, September 30, 1941, September 30, 1942, and September 30, 1943, to the Black Belt Branch Station located at Marion Junction in Dallas County, the sum of \$14,900.00. (e) That there is hereby appropriated out of the State Treasury for each of the fiscal years ending September 30, 1940, September 30, 1941, September 30, 1942 and September 30, 1943, to the Wiregrass Branch Station located at Headland in Henry County, the sum of \$12,500.00. (f) That there is hereby appropriated out of the State Treasury for each of the fiscal years ending September 30, 1940, September 30, 1941, September 30, 1942, and September 30, 1943, to the Gulf Coast Branch Station located at Fairhope in Baldwin County, the sum of \$14,900.00. (g) That there is hereby appropriated out of the State Treasury for each of the fiscal years ending September 30, 1940, September 30, 1941, September 30, 1942, and September 30, 1943, for the support of researches and experiments on experiment fields, the sum of \$24,000.00. (h) That all research work and experiments contemplated by the spirit and purpose of this Section shall be carried out under the supervision of the Director of the Agricultural Experiment Station of the Alabama Polytechnic Institute, who shall make a complete report to the President of the Alabama Polytechnic Institute for each of the fiscal years ending September 30, 1940, September 30, 1941, September 30, 1942, and September 30, 1943. (i) That the funds provided in this Section shall be used for the support of researches, experiments, and investigations bearing upon and relating to the production, marketing, manufacturing, use and distribution of agricultural crops and products; for the production, marketing, and curing of all kinds of livestock and livestock products that may be sold from or consumed on the farms of Alabama; for the production, culture, and use of pasture plants; for the establishment, care, use and management of pastures; for the testing of all kinds of hay, food, and forage crops, including those that may be used for lawns and other sod crop purposes; for the testing of varieties of crops, including soil adaptation and improvement; for the testing of various fertilizers and fertilizer materials on the various soils and for various crops; for the production, marketing, storage, and curing of fruit, nut, and vegetable crops; for the study of plant and animal disease, and insect pests; for researches and experiments dealing with forest production, management and use; for researches dealing with soil erosion and problems arising from the waste of land due to soil erosion; for researches to discover new uses of lands; for the provision of necessary land, buildings, fencing, livestock, and other physical equipment needed for the research work herein provided for; for researches in game and fish production; provided, however, that any researches in game and

fish production shall be in cooperation with or upon the advice of the Director of Conservation, so that there may be complete coordination between the work of the Alabama Agricultural Experiment Station and that of the State Department of Conservation; as future changing agricultural conditions may demand it, for other similar important agricultural and economic problems having for their object the development of a more permanent, more profitable and diversified agriculture; and for the printing of the necessary bulletins, circulars, etc., in order that the citizens of Alabama may be acquainted with the results of said researches.

Section 11. That the State Superintendent of Education shall make requisition on the State Comptroller in favor of proper beneficiary in accordance with the law and the rules and regulations governing the expenditure or disbursement of any and all funds provided for in this Act, whereupon the comptroller upon approval by the Governor, shall issue his warrant therefor; provided that all appropriations and funds made available to the Alabama College, the University of Alabama, and the Alabama Polytechnic Institute by the provisions of this Act shall be paid upon requisition upon the Comptroller made in the manner as now provided by law.

Section 12. That the appropriations provided in Section 1 of this Act shall be payable out of funds set aside by the Constitution for the payment of such appropriations, or where such funds are not set aside by the Constitution, shall be payable from the monies in the State Treasury to the credit of the General Fund; that the several appropriations herein provided in Section 2, 3, 4, 5, 6, 7, 8, 9, and 10 of this Act shall be payable out of the monies in the State Treasury to the credit of the Alabama Special Educational Trust Fund and in the event that such Trust Fund is insufficient to cover the appropriations provided in Sections 2, 3, 4, 5, 6, 7, 8, 9, and 10 of this Act, then the balance of said appropriations shall be payable out of any other monies in the State Treasury not otherwise appropriated, provided, however, that the balance of such appropriations that may be paid from such source shall not exceed \$1,500,000.00.

Section 13. That, except as may be herein otherwise provided, the amounts herein specifically appropriated shall be in lieu of the amounts heretofore provided or appropriated by law for such purposes.

Section 14. That the appropriations herein made are subject to the terms, conditions, provisions and limitations of the Budget and Financial Control Act.

Section 15. That, if any section, paragraph, sentence, clause, provision, or portion of this Act, or all or any portion of any appropriation or appropriations herein made be held unconstitutional or invalid, it shall not affect any other section, paragraph, sentence, clause, provision, or portion of this Act, or any other appropriation

or appropriations or portion thereof hereby made, not in and of itself unconstitutional or invalid.

Section 16. That all laws and parts of laws, general, special, private, or local, in conflict with the provisions of this Act be and the same are hereby expressly repealed.

Section 17. That this Act shall become effective on October 1, 1939.

Approved August 22, 1939.

No. 244)

(S. 300—Booth

AN ACT

To prescribe the conditions under which a municipal corporation, county, improvement authority, power district, federal or other governmental agency may engage in the business of furnishing electric service for industrial, domestic or other consumption in a territory in which there is in existence at the time a plant or distribution system or any part thereof furnishing such service to the public, and to provide a method by which such municipal corporation, county, improvement authority, power district, federal or other governmental agency may acquire such existing facilities at a price to be agreed upon by the parties or fixed by the Alabama Public Service Commission; to provide for a hearing of such matters by the Commission and for appeals from orders entered therein; to exempt from the provisions of this act, with respect to any existing plant or distribution system within its corporate limits, any municipal corporation which prior to the approval hereof shall have been authorized by an election to construct an electric distribution system; and to provide for the repeal of all laws in conflict herewith.

Be it Enacted by the Legislature of Alabama:

Section 1. Whenever any municipal corporation, county, improvement authority, power district, federal or other governmental agency, herein sometimes called "agency", proposes to engage in the business of operating an electric light plant or distribution system, or of furnishing electric service for industrial, domestic or other consumption and at the time such agency proposes to engage in such business there is then in existence within the territory in which it is proposed to furnish such electric service a plant or distribution system, either or both, or any part or parts thereof, furnishing the service so proposed to be furnished by such agency then such agency, as a condition precedent to the exercise of such authority, shall notify the owner of such plant or system by registered mail of its intention to engage in such business and of its willingness to acquire on such terms and conditions as may be agreed upon so much of such plant and system as shall be located in the territory in which the agency proposes to furnish such service and as shall be necessary and convenient therefor.

Section 2. If within thirty days after receipt of such notice the owner shall propose voluntarily to sell and transfer such prop-

erty to the agency upon terms and conditions to be mutually agreed upon between the owner and the agency and approved by the Alabama Public Service Commission, and serve a copy of such proposal upon the agency and upon the Commission, the Commission shall fix a time and place to hear and consider such proposal and notify all parties interested therein. If the terms and conditions of purchase and sale shall be agreed upon by and between the owner and the agency and approved by the Commission, the Commission shall announce its approval thereof by appropriate order and the agency shall by resolution or ordinance, as the case may be, authorize and direct the execution on the part of the agency of such contract in writing and other instrument and take any and every other action with reference thereto necessary or appropriate to consummate such purchase and sale and the transfer to the agency of possession of such acquired property and payment therefor in accordance with the terms of such agreement.

Section 3. If acquisition of the property sought to be acquired by the agency is not consummated under the provisions of Sections 1 and 2 hereof, the agency before proceeding to engage in the proposed business shall take such steps as may be hereinafter provided. If the agency and the owner fail within sixty days after written notice to the owner of the utility as herein provided to consummate the proposed acquisition, either the agency or the owner may apply to the Commission within fifteen days after the expiration of such sixty days for a determination as to what property ought in the public interest to be included in the purchase and what price ought to be paid, having in view the cost of the property less a reasonable allowance for depreciation and obsolescence, and any other element which may enter into a determination of the fair value of the property to be purchased; but such price shall be determined without enhancement on account of future earning capacity or good will, or of exclusive privileges derived from rights in the public streets or roads. Thereupon, the Commission, after notice to all interested parties, shall hold a hearing thereon and make the determination aforesaid. Such purchase shall include such portion of the property of the owner within the limits of the agency as is suitable for, and used in connection with, the generation or distribution of electricity within the agency or within the territory which the agency proposes to serve. The price shall include damages, if any, which the Commission finds would be caused by the severance of the property proposed to be included in the purchase from other property of the owner. Such severance damages shall be separately found by the Commission, and shall not exceed 15% of the amount, exclusive of such damages, fixed by the Commission to be paid to the owner. If any such property is subject to any mortgages, liens or other incumbrances, the Commission in making its determination shall provide for the deduction or withholding from the pur-

chase price, pending discharge, of such sum or sums as it deems proper. The determination herein provided shall be made by order and such order shall be deemed a final order of the Commission. The Commission may impose in its order reasonable conditions relating to the terms and conditions of the proposed acquisition and shall state in its order the findings of fact and conclusions of law upon which its determination and the conditions attached thereto are based.

Section 4. Any party shall have the right to appeal from the order of the Commission, such appeal to be governed by existing provisions of law relating to appeals from final orders of the Commission except that such appeal shall be taken to the Circuit Court of the judicial circuit containing the greater portion, by value, of the property to be acquired and such appeal shall be taken within ten days from the filing of the order of the Commission. The order of the Commission shall specify the judicial circuit in which the greater portion of the property, by value, is located and such specification shall be conclusive for fixing the venue of an appeal. On any such appeal, if the court shall determine that any condition imposed by the order of the Commission is unreasonable or that the Commission has erred in determining the just compensation to be paid, the court shall proceed to render the judgment the Commission should have rendered. Any action brought under the provisions of this Act shall have a preferred status before the Commission and in the courts as to trial and disposition thereof.

Section 5. The owner shall have thirty days after a final determination by the Commission or the courts to notify the agency of its acceptance of such determination and shall have a further period of thirty days to tender a good and sufficient deed of conveyance to the agency of the property required by the order of the Commission or the court to be purchased by placing such deed in escrow with the Commission or the court, as the case may be, and to comply with all other terms and conditions of the order or decree. The agency shall have sixty days from the date of the deposit of the deed in escrow to accept or reject such deed and if it accepts, the agency shall have a further period of sixty days to pay to the owner the price determined as herein provided and to comply with all other terms and conditions of the order or decree. For good cause shown the Commission or the court may extend any period of time fixed in this Section 5, such extension or extensions not to exceed a total of sixty days. If the owner fails to notify the agency of his acceptance and make tender of a deed as herein provided within the time so fixed or extended, or to comply with all other terms and conditions of the order or decree, the agency may proceed as provided by law to construct or otherwise acquire a plant or system within the territory where the property of such owner or any part thereof is located. If the agency shall reject the

tender herein provided for or shall fail to pay the purchase price of the property determined as herein provided or to comply with all other terms and conditions of the order or decree the agency shall not engage in the business of operating an electric public utility in the territory where the property involved is located until it shall again be authorized as provided by this Act and the general law relating thereto to engage in such business, and such agency shall not again institute proceedings under this Act sooner than two years from the date of such rejection or the expiration of the time for the payment of such purchase price, as the case may be.

Section 6. Nothing in this Act shall be deemed to require the purchase of or payment of compensation for any existing plant or distribution system within the corporate limits of any agency in which the construction of an electric distribution system has been authorized by an election held prior to the approval of this Act.

Section 7. All laws or parts of laws in conflict with this Act or any provision thereof are hereby repealed.

Section 8. If any provision of this Act or the application of such provision to any person, body, undertaking or circumstances shall be held invalid, the remainder of this Act or the application of such provision to persons, bodies, undertakings, or circumstances other than those as to which it shall have been held invalid, shall not be affected thereby.

Section 9. This Act shall be effective immediately after its passage and approval.

Approved August 18, 1939.

No. 246)

(H. 530—Langan

AN ACT

To amend section four of an act entitled: "An Act, (approved September 28, 1915, and found on pages 869, 870, 871, 872, 873 and 874 of the General Acts of Alabama of 1915) to amend sections four and ten of an act approved April 8, 1911 and entitled; An Act to provide and create a commission form of government and to authorize the adoption of the same in all cities and towns in the State of Alabama, which now are not, or hereafter may not be, within the influence or operation of any other valid legislative enactment authorizing or adopting such form of government; to regulate the selection and election of commissioners and their terms of office and retention in and recall from office; to provide for the selection of one commissioner as mayor, and the retention in office of certain officials; to fix the powers, duties and compensation of such commissioners; to punish improper conduct in connection with elections and petitions hereunder; to abolish boards of public works, police commissioners, councilmen; aldermen and certain other city and town officials of such municipalities as adopt the said form of government, and to amend said act by adding thereto Section 31-A."

Be it Enacted by the Legislature of Alabama:

Section 1. That section four of an Act entitled: "An Act, (approved September 28, 1915, and found on pages 869, 870, 871, 872, 873 and 874 of the General Acts of Alabama of 1915) to amend sections four and ten of an act approved April 8, 1911, and entitled; An Act to provide and create a commission form of government and to authorize the adoption of the same in all cities and towns in the State of Alabama, which now are not, or hereafter may not be, within the influence or operation of any other valid legislative enactment authorizing or adopting such form of government; to regulate the selection and election of commissioners and their terms of office and retention in and recall from office; to provide for the selection of one commissioner as mayor and the retention in office of certain officials; to fix the powers, duties and compensations of such commissioners; to punish improper conduct in connection with elections and petitions hereunder; to abolish boards of public works, police commissioners, councilmen, aldermen and certain other city and town officials of such municipalities as adopt the said form of government, and to amend said act by adding thereto section 31-a", be amended so as to read as follows: That whenever the commission form of government is adopted as herein provided, the mayor or other chief executive officer of such city in office at the time of such adoption shall become one of the commissioners herein provided for, and shall hold office as such commissioner until October 1st of the year in which his term as mayor would have expired had such office remained undisturbed, provided, that if such expiration be in the same year as such adoption of commission government, the term of office of such commissioner shall extend to the first day of October of the next year. Within three days after the adoption of such commission form of government by such city as hereinabove provided, the mayor or other chief executive officer thereof shall call an election for the purpose of electing two other commissioners for such city, which election shall be held on the first Monday after sixty days from the date of the election adopting the commission form of government, and not less than thirty days notice of the date and purpose of such election shall be given by the mayor or other chief executive of the city by advertisement, at the expense of the city, in some newspaper published in said city, and if there be none, then by posting notice at five public places in the city. At such election two persons who are qualified electors of said city shall be elected to hold office as commissioners of said city, one for a short term and the other for a long term and they, with the person who has become commissioner by virtue of having been mayor, shall constitute the three commissioners of said city. The term of office of the commissioner who shall be elected for the short term shall expire on September 30th of the second year after the ex-

piration of the term of office of that commissioner who becomes such by virtue of being mayor and the term of office of the commissioner who shall be elected for the long term shall expire on September 30th of the fourth year after the expiration of the term of office of that commissioner who becomes such by virtue of being mayor. The term of office of each commissioner elected after the first selection hereinabove provided for shall be for six years, beginning the 1st day of October of said year of his election; provided however, that in every city organized under the terms and provisions of this act having a population of sixty-five thousand or more according to the last or any subsequent federal census, that the first commissioner to be elected in every such city after the date of September 1st, 1939, shall be elected for a term which shall expire on September 30th of the fourth year after the date of his election, and the second commissioner to be elected in every such city after Sept. 1st, 1939, other than a commissioner elected for an unexpired term, shall be elected for a term which shall expire on Sept. 30th of the second year after the date of his election. That all commissioners elected after September 1st, 1943, other than those elected to serve an unexpired term, shall be elected for a term of four years, ending September 30th of the fourth year after their election, and all three commissioners shall be elected at the same election. Provided further however, in such cities, when there are one, two or three commissioners to be elected as above provided for, all candidates for such position or positions shall qualify as herein provided, and shall designate whether he is seeking to be elected to the position of mayor-president commissioner or associate commissioner. The names of all such candidates shall be placed upon the ballot in two designated groups under the heading of those seeking election as mayor-president in which group shall be placed the names of all candidates who have qualified for that position and a second group of those seeking to be elected as associate commissioners. All persons qualified to vote in such election shall be entitled to vote for one candidate for mayor-president and for as many candidates as there are positions of associate city commissioner to be filled. No elector shall be allowed to vote a second choice for any candidate and the ballots shall be prepared in such a manner as to not provide thereon for the casting of a second choice vote, but shall in all other particulars be as are hereinafter provided in this act. Whenever a candidate for mayor-president receives a majority of all votes cast for all candidates to that position then he shall be declared elected, and when no candidate receives a majority, then the two candidates receiving the highest number of votes shall be declared eligible for a second election. Such second election shall be held not less than ten nor more than fifteen days from the date of the first election. The candidate who receives the highest number of votes in the second election shall be declared elected mayor-presi-

dent commissioner. Whenever there is only one associate commissioner to be elected then the candidate receiving a majority shall be declared elected and if no candidate receives a majority then the two candidates receiving the highest number of votes shall be declared eligible for a second election, to be held in the same manner as set out above for mayor-president commissioner. Whenever there are two associate commissioners to be elected then the two candidates receiving the highest majority shall be declared elected. If only one candidate receives a majority then he shall be declared elected and the two candidates receiving the next highest number of votes shall be eligible for the second election, which election is held in the manner as set out above. If no candidate receives a majority then the three candidates receiving the highest number of votes shall be eligible for the second election. Such second election shall be held not less than ten nor more than fifteen days from the date of the first election and the two candidates who receive the highest majority of votes shall be declare elected as associate commissioners.

Second 2. That all laws or parts of laws in conflict herewith are hereby expressly repealed insofar as they conflict.

Second 3. That this act shall take effect immediately upon its passage and approval by the Governor, or its otherwise becoming a law.

Approved August 18, 1939.

No. 247)

(S. 239—Tucker

AN ACT

To make appropriations for the ordinary expenses of the Executive and Judicial Departments of the State, for the interest on the public debt, and for the public schools.

Be it Enacted by the Legislature of Alabama:

Section 1. That there is hereby appropriated for the ordinary expenses of the Executive and Judicial Departments of the State, for the interest on the public debt, and for the public schools for each of the four fiscal years ending respectively September 30, 1940, September 30, 1941, September 30, 1942, and September 30, 1943, to be paid out of any monies in the State Treasury not otherwise appropriated, the several sums of money hereinafter specified or so much thereof as may be necessary: I. EXECUTIVE AND ADMINISTRATIVE: 1. Governor's Office: For compensation of the Governor \$6,000.00. For other salaries \$18,500.00. For other expenses \$5,500.00, \$30,000.00. 2. Governor's Contingent Fund: \$25,000.00. 3. Governor's Emergency Fund: \$100,000.00. 4. Archives and History: For compensation of the Director \$2,700.00.

For other salaries \$16,000.00. For other expenses \$6,300.00, \$25,000.00. 5. Auditor's Office: For compensation of the Auditor \$3,600.00. For other salaries \$15,600.00. For other expenses \$2,300.00, \$21,500.00. 6. Attorney General: For compensation of the Attorney General \$5,700.00. For other salaries \$44,000.00. For other expenses \$10,000.00, \$59,700.00. For other salaries, conditional upon the approval of the Governor, \$15,000.00. For other expenses, conditional upon the approval of the Governor, \$5,000.00. 7. Treasurer's Office: For compensation of the Treasurer \$3,600.00. For other salaries \$20,000.00. For other expenses \$5,300.00, \$28,900.00. For other salaries conditional upon the approval of the Governor, \$5,920.00. 8. Secretary of State: For compensation of the Secretary of State \$3,600.00. For other salaries \$6,300.00. For other expenses \$6,100.00, \$16,000.00. 9. Department of Finance: For compensation of the Director of Finance \$5,700.00. For other salaries and for other expenses \$469,300.00. For office furniture and equipment for all Executive, Administrative, and Judicial offices and departments of the State \$15,000.00, \$490,000.00. Provided that all monies paid by counties as their pro rata share of the cost of examination and audit of their records and accounts as provided by law, shall be covered into the State Treasury as a revolving fund for the use and benefit of the Department of Finance or the division thereof, whose officers or employees make such examination and audit. 10. Department of Revenue: For compensation of the Commissioner of Revenue \$5,700.00. For other salaries and for other expenses, including the salaries and expenses of Boards of Equalization \$193,300.00, \$199,000.00. 11. Miscellaneous: For advertising lands for sale for taxes \$10,000.00. For mailing tax notices \$300.00. For distributing public documents \$500.00, \$10,800.00. II. JUDICIARY: 1. Supreme Court: For compensation of the Chief Justice \$6,000.00. For compensation of six Associate Justices at \$6,000.00 each \$36,000.00. For other salaries \$23,420.00. For other expenses \$5,580.00, \$71,000.00. 2. Court of Appeals: For compensation of the Presiding Judge and two Associate Judges at \$5,500.00 each \$16,500.00. For other salaries \$6,600.00. For other expenses \$2,100.00, \$25,200.00. 3. Circuit Judges: For compensation of forty-one Circuit Judges at \$5,000.00 each \$205,000.00. 4. Circuit Solicitors: For compensation of twenty-three Circuit Solicitors at \$3,000.00 each \$69,000.00. For compensation of the Solicitor of the Bessemer Division, 10th Judicial Circuit \$1,500.00. For compensation of Deputy Solicitor: Deputy, Bessemer Division of the 10th Judicial Circuit \$900.00. 1st Deputy, 10th Judicial Circuit \$2,100.00, 2nd Deputy, 10th Judicial Circuit \$1,500.00, 3rd Deputy, 10th Judicial Circuit \$1,500.00 Deputy, 15th Judicial Circuit \$1,080.00, \$77,580.00 5. Special Judiciary: For salaries and traveling expenses of Special Judges \$3,000.00. For traveling expenses of Circuit Judges \$5,900.00. For

traveling expenses of Circuit Solicitors \$4,400.00, \$13,300.00. III. ELECTIONS: For registration of voters: For the year ending September 30, 1940 \$57,500.00. For the year ending September 30, 1941, \$20,000.00. For the year ending September 30, 1942, \$57,500.00. For the year ending September 30, 1943, \$20,000.00. IV. MAINTENANCE AND REPAIR OF GENERAL GOVERNMENT BUILDINGS. 1. For construction and furnishing of Archives and History Building and Hall of the Judiciary Building for the year ending September 30, 1940, only: \$128,000.00. V. LAW ENFORCEMENT: 1. Military Department: For compensation of the Adjutant General \$4,000.00. For other salaries \$20,255.00. For other expenses \$21,250.00. For quarterly allowances \$55,000.00, \$100,505.00. For care and maintenance of State Armories to be expended under the direction of the Director of Finance, with the approval of the Governor, \$18,750.00. For the Aviation Commission: (a) For compensation of the Assistant Director of Aeronautics \$3,000.00. (b) For other salaries and for other expenses, conditional upon the approval of the Governor, \$8,500.00. 2. For active Military Service: Such sums as may be necessary to pay subsistence, shelter, traveling, pay, and other necessary expenses of troops called into the active military service of the State for the purpose of enforcing the law, preservation of the peace, for the security of the lives of citizens, for relief and aid in case of disaster, for protection of property, or other services ordered by the Commander in Chief, estimated, \$40,000.00. VI. BUSINESS REGULATIONS: 1. Department of Commerce: For compensation of the Director of Commerce \$5,000.00. For other salaries \$44,940.00. For other expenses \$33,770.00, \$83,710.00. 2. Department of Industrial Relations: For the compensation of the Director of Industrial Relations and for other salaries \$47,650.00. For other expenses \$15,350.00. For the Alabama State Employment Service for matching Federal funds \$65,000.00, \$128,000.00. 3. Department of Agriculture and Industries: (a) For compensation of the Commissioner of Agriculture and Industries, for other salaries; and for other expenses of operating the Department of Agriculture and Industries, the monies in the Agricultural Fund as provided in the Agricultural Code of Alabama of 1927 as amended. Said monies shall be expended for the purposes and in the manner provided in the Agricultural Code of Alabama of 1927 and the amendments thereto, and in addition thereto for the following purposes: (1) \$3,000.00 annually for the operation of the State Serum Plant. (2) \$35,000.00 annually for matching Federal funds for the purpose of indemnifying owners of cattle which have been condemned or slaughtered, after having reacted to the test for tuberculosis, paratuberculosis, or Bang's disease. (b) For matching Federal funds for the purpose of indemnifying owners of cattle which have been condemned or slaughtered, after having reacted to the test

for tuberculosis, paratuberculosis, or Bang's disease, but only after the expenditure of the monies provided to be expended from the Agricultural Fund for such purposes, \$40,000.00. 4. State Securities Commission: For salaries \$4,200.00. 5. Alabama Real Estate Commission: For compensation of Commissioners for salaries, and for other expenses incident to the duties of the Commission, the Alabama Real Estate Fund as provided in Act. No. 344, approved August 27, 1927. 6. Alabama Public Service Commission: For compensation of the President of Commission \$3,600.00. For compensation of two Associate Commissioners at \$3,000.00 each \$6,000.00. For salaries and for other expenses \$90,400.00—\$100,000.00. Provided, that the appropriation to the Alabama Public Service Commission shall be payable only out of inspection and supervision fees paid by utilities and transportation companies, and such parts or percentages of the fees and taxes paid by motor carriers or motor transportation companies as are now or may be set aside by law to be used by the Commission, but if said fees and taxes do not equal the total amount of \$100,000.00 there shall not be paid out of the General Fund of the State any amount, but the appropriation for all said salaries and expenses of the Commission, and its employees in such event shall be limited to the total amount of all said fees and taxes assigned to the Commission's said appropriation. In consideration of the fact that inspection and supervision fees of utilities and transportation companies, constituting the greater part of the funds made available for the salaries and expenses of the Commission and its employees, are payable on the calendar year basis and are payable on February first of each year, the State Treasurer shall hold in the State Treasury at the end of each fiscal year on September 30th as much as \$33,333.33, or such part of said sum of \$33,333.33, out of such fees and taxes assigned to this appropriation for the Commission, as may be on hand, and the same shall be paid out by the State Treasurer as provided by law for all such salaries and expenses of the Commission and its employees during the months of October, November, December, and January. Upon the close of business at the end of each fiscal year of the State, if the balance of the amount of such fees and taxes assigned to provide such appropriation for the Commission, then on hand in the State Treasury, exceeds said sum of \$33,333.33, such excess shall be covered into the State Treasury to the credit of the General Fund. VII. CONSERVATION OF HEALTH AND SANITATION: 1. Health Department: For compensation of State Health Officer \$3600.00. For salaries, for other expenses and for pasteur treatments \$223,500.00. For contribution to county health units \$202,900.00. For subsidy to counties for the treatment of tuberculosis \$75,000.00, \$505,000.00. For other expenses conditional upon the approval of the Governor, \$25,000.00. VIII. DEVELOPMENT AND CONSERVATION

OF NATURAL RESOURCES: 1. Department of Conservation: (a) Game, Fish and Seafoods Division: For compensation of the Director of Conservation, for salaries and for other expenses incident to the operation of the Game, Fish, and Seafoods Division, the monies in the Conservation fund received from license fees paid by hunters or fishermen. (b) Oyster Protection, Division of Forestry, and Division of State Parks, Monuments, and Historical Sites: For salaries and for other expenses incident to the preservation, development and improvement of the State's oysters and oyster beds and shrimp, and for salaries and for other expenses incident to the operation of the Division of Forestry, and for salaries and for other expenses incident to the operation of the Division of State Parks, Monuments, and Historical Sites, all monies in the Conservation fund, except the monies received from license fees paid by hunters or fishermen, and \$40,000.00. For salaries and for other expenses incident to the preservation, development, and improvement of the State's oyster and oyster beds and shrimp, and for salaries and for other expenses incident to the operation of the Division of Forestry, and for salaries and for other expenses incident to the operation of the Division of State Parks, Monuments, and Historical Sites, conditional upon the approval of the Governor, \$50,000.00. For surveying, investigating, marking, supervising, patrolling, and protecting 16th Section lands, school indemnity lands, and lands belonging to the institutions of the State \$10,000.00, \$50,000.00. 2. Geological Survey: For salary of the State Geologist, conditional upon the approval of the Governor, for the fiscal year ending September 30, 1943 only \$3,600.00. For salaries of employees \$18,355.00. For other expenses \$30,000.00. For matching Federal Funds for the investigation of the water resources of the State \$7,500.00, \$55,855.00. For completion of purchase of lands at Moundville Park, conditional upon the approval of the Governor, for the year ending September 30, 1940 only, \$6,000.00. IX. CHARITIES, HOSPITALS, AND CORRECTIONS: 1. Department of Public Welfare: For compensation of the Commissioner of Public Welfare, for other salaries, for other expenses, for Juvenile Wards, for Public Welfare, for Old-Age Assistance, and for Social Security \$498,650.00. There is hereby appropriated to the State Department of Public Welfare for Old-Age Assistance purposes, out of the proceeds from the levy of the one mill tax for the relief of needy Confederate soldiers and sailors and their widows, all the surplus or residue thereof after the payment in full of the pensions to Confederate soldiers and sailors and their widows and other charges against said fund set out in Article I of Chapter 55 of the Code of Alabama of 1923 as amended, and in making this appropriation it is hereby declared to be the legislative policy that the Department of Public Welfare expend all the surplus or residue hereby appropriated and all moneys received

by it from the Federal Government as matching of any or all funds expended for Confederate pensions or as matching of the surplus or residue hereby appropriated, for Old-Age Assistance purposes exclusively, insofar as is possible under existing laws and the rules and regulations of the Federal Government and of the Department of Public Welfare in regard thereto, before any part thereof may be expended for any other purposes of the Department of Public Welfare. 2. Department of Corrections and Institutions: For the payment of the compensation of the Director of Corrections and Institutions, for other salaries and for other expenses incident to the operation and maintenance of the Convict system of Alabama, all receipts from its Administration and operation of the convicts; and in addition thereto, for such purposes, such additional sum as shall be needed for the proper administration, operation and maintenance of the convict system of Alabama not to exceed \$375,000.00. For the payment of Criminal Court Costs \$125,000.00, \$500,000.00. For the construction of additional buildings and purchase of lands, conditional upon the approval of the Governor, \$125,000.00. 3. For the removal of Prisoners: \$10,000. 4. For feeding Prisoners: \$290,000.00. 5. For the arrest of absconding felons: \$1,500.00. 6. Board of Pardons and Paroles: For compensation of three members \$10,800.00. For other salaries and for other expenses, including equipment \$35,000.00, \$50,000.00. For other salaries and for other expenses including equipment, conditional upon the approval of the Governor, \$25,000.00, payable from the sum of \$350,000.00 herein above appropriated to the Department of Corrections and Institutions: X. STATE INSTITUTIONS: 1. Alabama Reform School for Negroes: \$45,000.00. Any balance from this appropriation at the end of any fiscal year, shall remain in the hands of the Treasurer of said institution and shall not revert to the State Treasury. 2. Alabama Insane Hospitals: For the support, maintenance, and repair of Alabama Insane Hospitals, an amount to be fixed by the Governor, at not less than \$3.00 per week nor more than \$4.00 per week for each patient, estimated \$975,000.00. For the erection of buildings, conditional upon the approval of the Governor, \$25,000.00. 3. Partlow State School: For the support, maintenance, and repair of Partlow State School, an amount to be fixed by the Governor, at not less than \$3.00 per week nor more than \$4.00 per week for each inmate, estimated \$122,512.00. Appropriations herein made to the Alabama Insane Hospitals and the Partlow State School for mental deficient, shall be payable and are to be disbursed as provided in Sections 1423 to 1485, inclusive, as amended, of the Code of Alabama of 1923 and the Act entitled, "An Act to provide for the maintenance of the Alabama Home for mental inferiors," Approved February 3, 1923, and shall continue, and the unexpended balances thereof shall not revert to the State Treasury at the end of any fiscal year. 4. State Training School

for Girls: For the maintenance, support, insurance, and upkeep of the State Training School for Girls, an annual amount to be drawn quarterly in advance by the Treasurer of the Board of the State Training School for Girls, and to be disbursed as directed by said Board \$50,000.00. Any balance from this annual appropriation of \$50,000.00 at the end of any fiscal year shall remain in the hands of the Treasurer of said institution and shall not revert to the State Treasury. 5. Alabama Boys Industrial School: For the maintenance, support, insurance, and upkeep of the Alabama Boys Industrial School, an annual amount to be drawn quarterly in advance by the Treasurer of the Board of the Alabama Boys Industrial School, and to be disbursed as directed by said Board \$108,883.89. Any balance from this annual appropriation of \$108,883.89 at the end of any fiscal year shall remain in the hands of the Treasurer of said Board and shall not revert to the State Treasurer. For erections of buildings and to purchase or complete the purchase of lands \$10,000.00, \$118,883.89. XI. EDUCATION: 1. State Department of Education: For compensation of the Superintendent of Education \$4,800.00. For other salaries \$68,946.50. For other expenses \$24,553.50, \$98,300.00. 2. Alabama Institute for Deaf and Blind: For the maintenance, support, insurance, and upkeep of the Alabama Institute for the Deaf and Blind an educational institution which is a division of the Public Schools of Alabama, the sum of \$305.00 per pupil per annum, such appropriation to be based on the number of pupils enrolled on the first day of January of each year, and to be drawn quarterly in advance by the Treasurer of the Board of the Alabama Institute for Deaf and Blind and to be disbursed as directed by said Board, estimated \$202,000.00. Any balance from this appropriation at the end of any fiscal year shall remain in the hands of the Treasurer of said institution and shall not revert to the State Treasury. For the construction of new buildings, conditional upon the approval of the Governor, for each of the fiscal years ending September 30, 1940 and September 30, 1941, only \$20,000.00. 3. Alabama College: For interest on Endowment \$34,964.00. 4. Alabama Polytechnic Institute: For interest on Endowment \$20,280.00. 5. University of Alabama: For interest on Endowment \$61,000.00. 6. Grove Hill Endowment: For interest on Endowment \$600.00. 7. Alabama School of Trades and Industries—Gadsden: For the purchase of lands, improvements, equipment, and erection of buildings conditional upon the approval of the Governor, \$25,000 00. XII. HIGHWAYS AND BRIDGES: For interest and sinking funds on outstanding highway bonds, so much of the gasoline taxes and motor vehicle licenses collected as may be necessary to pay same; and for the compensation of the State Highway Director, and for maintenance and construction of roads and bridges and for salaries and for other expenses of the Highway Department, the rest and residue of gaso-

line taxes, motor vehicle licenses, and all other revenues coming in or accruing to the Highway Department by virtue of Federal Aid. XIII. MISCELLANEOUS: 1. World War Orphans Scholarship: \$2,400.00. 2. State Board of Adjustment: For salaries and for other expenses \$2,500.00. 3. Alabama Air Service Building Commission: For matching Federal funds conditional upon the approval of the Governor, \$20,000.00. 4. Confederate Reunion: \$1,000.00. 5. Confederate Museum at Richmond: \$250.00. 6. Spanish War Veterans Encampment \$500.00. 7. State Personnel Department: For compensation of the Director \$5,000.00. For other salaries \$20,850.00. For other expenses \$8,150.00, \$34,000.00. For salaries and for other expenses, conditional upon the approval of the Governor, \$15,000.00. 8. State Toxicologist: For compensation of the State Toxicologist \$3,600.00. For other salaries and for other expenses, including supplies and equipment \$11,400.00, \$15,000.00. 9. State Planning Commission: For salaries and for other expenses, conditional upon the approval of the Governor, \$10,000.00, and in addition thereto such sums as may be appropriated to it out of the proceeds of the tax on lubricating oil, to be expended upon the approval of the Governor. 10. State Soil Conservation Committee: For the administrative and other expenses of the State Soil Conservation Committee and the Soil Conservation districts which may be organized under the provisions of the Soil Conservation Act, approved March 18, 1939, and subject to the conditions in said Act, \$10,000.00. 11. State Service Commission: For compensation of the Commissioner \$2,400.00. For other salaries \$8,000.00. For other expenses \$4,980.00, \$15,380.00. 12. Purchase of land to connect Fort McClellan with the National Forest: For the purchase of land in Calhoun County to connect Fort McClellan with the National Forest, conditional upon the approval of the Governor, and only when such appropriation will not result in the proration of other appropriations, \$150,000.00 only, during the four-year period. Provided, however, that, subject to the conditions herein above, said \$150,000 may be made available for expenditure in whole or in part during any fiscal year of the quadrennium. XIV. INTEREST AND DEBT SERVICE: 1. For interest on Class A Renewal and Class C Renewal and Funding Renewal Bonds: \$339,720.00. 2. For sinking fund for the retirement of Class A renewal, Class C Renewal, and Funding Renewal Bonds: \$50,000.00. For sinking fund for the retirement of Class A Renewal, Class C Renewal, and Funding Renewal Bonds, conditional upon the approval of the Governor, \$50,000.00. 3. For principal and interest on Harbor Improvement Bonds: A sufficient sum to pay the principal and interest on outstanding Harbor Improvement Bonds as they severally mature, that is not provided for by the receipts of the Department of State Docks and Terminals. 4. For interest in Spanish American War Veterans Fund:

\$300.00. XV. PENSIONS: 1. Confederate Soldiers and Sailors and their Widows: Such an amount may be necessary to pay all the pensions allowed to Confederate soldiers and sailors and their widows as now provided by law, out of the proceeds from the levy of the one mill tax for the relief of needy Confederate soldiers and sailors and their widows, and in the event the proceeds from said levy are insufficient to pay same, such additional amount as may be necessary for the payment thereof. 2. Pension Commission: For salaries, \$2,500.00. For other expenses, \$1,000.00, \$3,500.00. Provided that the salaries and other expenses of the Pension Commission shall be paid out of the proceeds from the levy of the one mill tax for the relief of needy Confederate Soldiers and Sailors and their widows. 3. Confederate Soldiers Home at Mountain Creek, Alabama: For the care and maintenance of the Confederate Soldiers Home at Mountain Creek, Alabama, and the inmates now supported therein, to be administered by the Department of Public Welfare, \$5,000.00. The Department of Public Welfare is authorized and empowered, whenever in the judgment and discretion of the Commissioner of Public Welfare with the approval of the Governor, the beneficiaries of the Confederate Soldiers Home at Mountain Creek, Alabama, can be better cared for in other surroundings, to devote the funds hereby appropriated first to the care of such beneficiaries now cared for in said Home, any surplus remaining to be expended for old age assistance.

Section 2. That any surplus remaining in any appropriation herein made from the General Fund for the payment of salaries in any office, department, bureau, board, commission, or other agency, after provision has been made for the payment of all salaries in that office, department, bureau, board, commission, or other agency for which the appropriation is made, may be transferred, on order of the Governor, to any other appropriation herein made from the General Fund for the payment of all salaries in any office, department, bureau, board, commission, or other agency when the appropriation herein made from the General Fund for the payment of salaries in that office, department, bureau, board, commission, or other agency is insufficient to pay all the salaries in that office, department, bureau, board, commission, or other agency according to the pay plan recommended by the Personnel Board, and approved by the Governor.

Section 3. That, except as may be herein otherwise provided, the amounts herein specifically appropriated shall be in lieu of the amounts heretofore provided or appropriated by law for such purposes.

Section 4. That all laws general, special, private, or local, inconsistent with the provisions of this Act, be and the same are hereby expressly repealed.

Section 5. That, except as may be otherwise provided in what is known as and called the Budget and Financial Control Act, nothing herein shall be construed to affect or repeal any law or provision of law under or by which any department is now operated wholly upon any receipts, licences, fees, or revenues, payable to or collected by or for the account of such department; nor shall anything in this Act be construed to affect or repeal any law authorizing or permitting any college, school, or other institution of the State to receive, collect, or disburse any fees, tuition, charges, sales, endowments, trusts or income therefrom, which it is now or may hereafter be authorized to receive, collect, or disburse.

Section 6. That the appropriations herein made, except appropriations to eleemosynary institutions and to the Alabama Institute for Deaf and Blind, are and shall be subject to the terms, conditions, provisions, and limitations of the Budget and Financial Control Act.

Section 7. That if any section, paragraph, sentence, clause, provision, or portion of this Act or all or any portion of any appropriation or appropriations herein made be held unconstitutional or invalid, it shall not affect any other section, paragraph, sentence, clause, provision, or portion of this Act, or any other appropriation or appropriations or portion thereof hereby made, not in and of itself unconstitutional or invalid.

Section 8. That all laws and parts of laws, general, special, private, or local, in conflict with the provisions of this Act, be and the same are hereby expressly repealed.

Section 9. That this Act shall become effective on October 1, 1939.

Approved August 24, 1939.

No. 252)

(H. 305—Gwin

AN ACT

To regulate the right to recover court costs which have been paid in courts in counties having a population of 400,000 or more, according to the last or any subsequent Federal census.

Be it Enacted by the Legislature of Alabama:

Section 1. The provisions of this Act shall apply only in counties having a population of 400,000 or more, according to the last or any subsequent Federal Census.

Section 2. No court costs which have been paid by any defendant in any criminal prosecution, whether erroneously taxed against the defendant or not, can be recovered by the defendant unless, prior to the payment by the defendant, he files a motion to the court in which he was adjudged guilty to retax or eradicate

from the bill of costs the alleged erroneous items; and the provisions of this Act shall apply to all costs heretofore paid as well as those which may be paid hereafter.

Section 3. No county having a population of 400,000 or more, according to the last or any subsequent Federal census, shall be liable to refund any court costs which have been paid by any defendant in any criminal prosecution, whether erroneously taxed against the defendant or not, unless, prior to the payment by the defendant, he filed a motion to the court in which he was adjudged guilty to retax or eradicate from the bill of costs the alleged erroneous items; and the provisions of this section shall apply to all costs heretofore paid as well as those which may be paid hereafter.

Section 4. If any section or provision of this Act be held unconstitutional or void, this shall not affect the validity of any other section or provision hereof, it being hereby declared that each and every section or provision of this Act shall be severable.

Approved August 24, 1939.

No. 253)

(H. 382—Dominick

AN ACT

To appropriate out of the surplus of Income Tax, after provision has been made for the administration of said Act, and the payment at anytime of the next two maturing installments of interest, and the next maturing installment of principal on warrant refunding bonds of the State of Alabama issued, or to be issued pursuant to authority contained in Act No. 50 of the Legislature of Alabama passed at the Regular Session, 1935, and approved February 8, 1935, to the Property Tax Relief Fund such an amount as may be necessary for the replacement of any revenues lost by exemption of homesteads from all State ad valorem taxes, provided by Act No. 107 of the Legislature of Alabama, Special Session 1936-37, approved February 20, 1937.

Be it Enacted by the Legislature of Alabama:

Section 1. That there is hereby appropriated out of the surplus of Income Tax, after provision has been made for the administration of said Act, and the payment at anytime of the next two maturing installments of interest, and the next maturing installment of principal on warrant refunding bonds of the State of Alabama issued, or to be issued, pursuant to authority contained in Act No. 50 of the Legislature of Alabama passed at the Regular Session, 1935, and approved February 8, 1935, to the Property Tax Relief Fund such an amount as may be necessary for the replacement of any revenues lost by exemption of homesteads from all State ad valorem taxes, provided by Act No. 107 of the Legislature of Alabama, Special Session 1936-37, approved February 20, 1937.

Section 2. The Comptroller, with the approval of the Governor, is hereby directed to transfer out of the surplus of the Income Tax,

after provision has been made for the administration of said Act, and the payment at anytime of the next two maturing installments of interest, and the next maturing installment of principal on warrant refunding bonds of the State of Alabama issued, or to be issued, pursuant to authority contained in Act No. 50 of the Legislature of Alabama passed at the Regular Session, 1935, and approved February 8, 1935, to the Property Tax Relief Fund such an amount as may be necessary for the replacement of any revenues lost by exemption of homesteads from all State ad valorem taxes, provided by Act No. 107 of the Legislature of Alabama, Special Session 1936-37, approved February 20, 1937.

Section 3. This Act shall become effective upon approval of the Governor.

Approved August 25, 1939.

No. 258)

(H. 458—Megginson, Stone, Langan

AN ACT

To repeal an Act of the Legislature of Alabama, approved February 13, 1931, entitled "To provide for a matron at the county jail in all counties having a population of not less than one hundred thousand and not more than three hundred thousand according to the last or any subsequent Federal Census; to fix her duties and provide for her compensation," and to provide that this Act shall take effect immediately upon its passage.

Be it Enacted by the Legislature of Alabama:

Section 1. That the Act of the Legislature of Alabama, approved February 13, 1931, entitled "To provide for a matron at the county jail in all counties having a population of not less than one hundred thousand and not more than three hundred thousand and according to the last or any subsequent Federal Census; to fix her duties and provide for her compensation," be and the same is hereby repealed.

Section 2: This Act shall become effective immediately upon its passage.

Approved August 24, 1939.

No. 259)

(H. 459—Megginson, Stone, Langan

AN ACT

To Repeal The Act Of The Legislature of Alabama, Approved February 10, 1927, Entitled "An Act To provide for the appointment of an additional assistant solicitor to be known as the second assistant solicitor for each judicial circuit in the State, now or hereafter composed of one county having more than two circuit judges and less than nine circuit judges, to fix the term of said office, to prescribe the duties and authority of said additional assistant solicitor to be known as the second assistant solicitor

and to fix his compensation," and to provide that this Act shall take effect immediately upon its passage and approval by the Governor.

Be it Enacted by the Legislature of Alabama:

Section 1: That the Act of the Legislature of Alabama, Approved February 10, 1927, entitled "An Act To provide for the appointment of an additional assistant solicitor to be known as the second assistant solicitor for each judicial circuit in the State, now or hereafter composed of one county having more than two circuit judges and less than nine Circuit judges, to fix the term of said office, to prescribe the duties and authority of said additional assistant solicitor to be known as the second assistant solicitor and to fix his compensation", be and the same is hereby repealed.

Section 2: This Act shall take effect immediately upon its passage and approval by the Governor.

Approved August 29, 1939.

No. 260)

(H. 460—Megginson, Stone, Langan.

AN ACT

To provide for the appointment of not exceeding two assistant solicitors for each Judicial Circuit in the State now or hereafter composed of one County and having more than two Circuit Judges and less than nine Circuit Judges, to fix the term of said offices, to describe the duties and authority of said assistant solicitors, to provide for their compensation, to repeal all laws or parts of laws in conflict herewith, and to provide that this act becomes effective immediately upon its passage.

Be it Enacted by the Legislature of Alabama:

Section 1: That in each Judicial Circuit in the State now or hereafter composed of one County and having more than two and less than nine Circuit Judges, there shall be appointed by the Circuit Solicitor not exceeding two assistant solicitors of the said Circuit, to represent the State in cases in the Inferior Courts and in preliminary proceedings, applications for bail, habeas corpus proceedings, to aid or act for the Circuit Solicitor before the Grand Jurys and in criminal matters in the Circuit Court when requested to do so by the Circuit Solicitor, and to perform any and all other duties pertaining to the office of Circuit Solicitor when so directed by the Solicitor.

Section 2: In the event the Circuit Solicitor for any such Circuit elects to appoint only one assistant solicitor hereunder, such assistant solicitor shall be paid a monthly salary, to be fixed by such Circuit Solicitor, not to exceed Two Hundred and Fifty Dollars (\$250.00) per month; in the event the Circuit Solicitor for such Circuit appoints two assistant solicitors hereunder, the salaries of each of said assistant solicitors shall be fixed by said Circuit Solici-

tor, not exceeding in the aggregate Two Hundred and Fifty Dollars (\$250.00) per month; such salary or salaries shall be payable monthly out of the general funds of the County Treasury.

Section 3: The term of office of such assistant solicitor or solicitors shall be at the pleasure of the Circuit Solicitor and he or they or either of them may be removed by the Circuit Solicitor at the pleasure of the Circuit Solicitor.

Section 4: The assistant solicitor or assistant solicitors herein provided for shall be in substitution for and not in addition to any other assistant solicitors provided by law for any such Circuit, and all laws or parts of laws, general or local, providing for any assistant solicitor for any such Circuit or in any other manner in conflict herewith are hereby repealed.

Section 5: This act shall take effect immediately upon its passage.

Approved August 29, 1939.

No. 261)

(H. 461—Megginson, Stone, Langan

AN ACT

To Amend Section 6717 of the Code of Alabama of 1923 as said Section was last Amended by The Act Approved March 1, 1939, entitled "An Act to Amend Section 6717 of the Code, as Said Section was Last Amended by the Act Approved February 20, 1931, General Acts, Regular Session, 1931, at Pages 66-57", and to provide that this Act shall become effective immediately upon its passage and approval by the Governor.

Be it Enacted by the Legislature of Alabama:

Section 1: That the Act to amend Section 6717 of the Code of Alabama 1923, as said Section was last amended by the Act approved March 1, 1939, be and the same is hereby amended so as to read as follows: 6717. (3265) (926) (663) (760) (642) COMPENSATION TO SUCH BAILIFFS. Bailiffs actually serving in Court shall receive Three Dollars (\$3.00) a day for every day they serve, to be paid out of the County Treasury on the certificate of the presiding judge showing that his service was necessary. In circuits composed of one County having two Circuit Judges, each judge of said Courts shall have the power and authority to appoint one bailiff, who shall receive a salary of Twenty-One Hundred Dollars (\$2100.00) per annum, payable in twelve (12) monthly installments, out of the Treasury of the County constituting such circuit, upon warrant of the President of the Board of Revenue. In circuits composed of one county, having three Circuit Judges, each judge of such Courts shall have the power and authority to appoint one bailiff, who shall receive a salary of Twenty-Four Hundred Dollars (\$2400.00) per annum, payable in twelve (12) equal monthly installments, out of the Treasury of the Coun-

ty constituting such circuit, upon warrant of the President or Chairman of the Board of Revenue or of the Governing Body of the County. Said bailiffs, while not engaged as such, shall be used by the Sheriffs of said Counties as deputies and be under his direction and control while acting as such deputies. They shall execute bonds as other deputies in such counties, and the premiums on said bonds shall be paid by said counties. Each bailiff appointed by a Judge of any such Court shall hold office at the will and pleasure of the Judge so appointing him. Each such bailiff appointed to serve in counties having three Circuit Judges shall, in addition to the duties now imposed upon him, be required to wait upon all grand juries while in session, when directed by the Judge so appointing him. The bailiffs appointed by the Judges under this section shall be in lieu of bailiffs of said courts provided for under Section 6717 of the Code of Alabama 1923. Nothing in this section or in the preceding section shall apply to circuits having five or more judges.

Section 2: All laws or parts of laws in conflict with this Act are hereby repealed.

Section 3: This Act shall become effective immediately upon its passage and approval by the Governor.

Approved August 25, 1939.

No. 262)

(H. 463—Davis of Montgomery

AN ACT

To repeal an Act entitled an Act to provide for the consolidation of the administration and control of the public school systems in any county, of not less than seventy-five thousand nor more than one hundred thousand population according to the last or any succeeding Federal Census; to establish a Board of Education, in lieu of all other city and county Boards of Education in such counties, and provide for the manner of its selection and to define its authority approved September 6th, 1927, as amended by Act No. 94 Page 169 of the Acts of 1931 approved March 5, 1931 and as further amended by Act No. 372 page 438 of the Acts of 1931 approved July 8, 1931 and as amended by Act No. 57 page 144 of the Acts of 1935 approved February 9, 1935 and as amended by Act No. 204 page 596 of the Acts of 1935 approved July 11, 1935, and as amended by Act No. 5 Page 1 of the Acts of the Extra Special Session of 1936 approved March 3, 1936, and as amended by Act No. 16 Page 8 of the Acts of the Special Session of 1936-1937 as approved January 8, 1937.

Be it Enacted by the Legislature of Alabama:

Section 1. That an Act entitled an Act to provide for the consolidation of the administration and control of the public school systems in any county, of not less than seventy five thousand nor more than one hundred thousand population according to the last or any succeeding Federal Census; to establish a Board of Edu-

cation, in lieu of all other city and county Boards of Education in such counties, and provide for the manner of its selection and to define its authority approved September 6th, 1927, as amended by Act No. 94 Page 169 of the Acts of 1931 approved March 5, 1931 and as further amended by Act No. 372 page 438 of the Acts of 1931 approved July 8, 1931 and as amended by Act No. 57 page 144 of the Acts of 1935 approved July 11, 1935, and as amended by Act No. 5 page 1 of the Acts of the Extra Special Session of 1936 approved March 3, 1936, and as amended by Act No. 16 Page 8 of Acts of the Special Session of 1936-1937 as approved January 8, 1937, be and the same is hereby repealed.

Approved August 24, 1939.

No. 275)

(S. 186—St. John

AN ACT

To create a State Board of Pardons and Paroles; to provide for its authority, duties, functions and powers; to provide for its personnel, the manner of their appointment and removal and their tenure of office; to provide for the employment of assistants; to provide for the compensation of the Board and its assistants and other expenses thereof; to provide for the supervision of prisoners released on parole; to provide for the granting of pardons and for the remission of fines and forfeitures; to provide for the cooperation between the said Board, the Department of Corrections and Institutions and the Courts in the supervision of prisoners released on probation by the courts; and to repeal all laws in conflict herewith.

Be it Enacted by the Legislature of Alabama:

Section 1. There is hereby created a Board of Pardons and Paroles, which shall consist of three members who shall be appointed by the Governor within sixty days after this Act shall have become effective, subject to confirmation by the Senate, provided that no two members of said Board shall be residents of the same Congressional District. The first members appointed shall be for the terms of two, four and six years respectively, to be designated by the Governor and, at the expiration of said terms, their successors shall be appointed for terms of six years. The Governor shall designate one of said members as Chairman of the Board and such Chairman shall preside at sessions of the Board. Each member shall take the constitutional oath of office and shall be subject to impeachment for any of the causes specified in Section 173 of the Constitution and procedure in cases of impeachment shall be in the manner provided by Section 175 of the Constitution. Provided further that in the event the Governor shall determine that any member of the said Board shall have become incapacitated, by reason of physical or mental disability or illness, to the extent that he cannot efficiently perform the duties of his office, and shall direct

the Attorney General to proceed to the determination of that issue in the courts, an inquisition proceeding shall be instituted in the Circuit Court of Montgomery County, Alabama, to determine said issue. In the event the issue is determined in said Court against said Board member, the court shall declare the office vacant and the same shall be vacated and a successor appointed, as herein provided. Vacancies shall be filled by the Governor for the unexpired term. Appointments made at times when the Senate is not in session shall be effective ad interim. Two members of the said Board shall constitute a quorum for the transaction of the official business of the Board. The annual salary of each member of the Board shall be \$5,000.00 per annum payable in equal monthly installments, in the same manner as salaries of other state officers are payable. The members of the Board shall devote their full time to their official duties and shall hold no other office of profit during their incumbency.

Section 2. The Board, with the approval of the Governor, may appoint a secretary and such clerical, stenographic, supervisory and expert assistants as may be necessary to carry out the provisions of this act and, with the approval of the Governor, shall fix the salaries of such assistants. However, the selection of such assistants and the fixation of their salaries shall be subject to the provisions of the Merit System Act.

Section 3. The necessary office quarters, supplies, stationery and equipment shall be provided for the Board in the manner that the same are furnished to other departments, boards, commissions, bureaus and offices of the state.

Section 4. The Board shall convene at the call of the Governor as soon as practicable after their appointment and qualification and subsequent meetings shall be held at the call of the Chairman or as may be determined by the Board.

Section 5. The Board shall be charged with the duty of determining what prisoners serving sentences in the jails and prisons of this state may be released on parole and when and under what conditions. Such Board shall also be charged with the duty of supervising all prisoners released on parole from the jails or prisons of the state, and of lending its assistance to the Department of Corrections and Institutions and to the courts in the supervision of all prisoners placed on probation by courts exercising criminal jurisdiction, and making such investigations as may be necessary in connection therewith; of determining whether violation of parole or probation conditions exist in specific cases and, in the case of parolees, deciding what action should be taken with references thereto, and, in the case of probationers, causing reports of such investigations to be made to the judges of the courts having jurisdiction of the probationers; and of aiding parolees and probationers to secure employment. It shall also be the duty of the Board to

personally study the prisoners confined in the jails and prisons of the state so as to determine their ultimate fitness to be paroled. That between October 1 and December 31 of each year, said board shall make a full report of its activities and functions during the preceding year, which said report shall be prepared in quadruplicate, and one copy thereof lodged with the Governor, and one filed in the office of the Secretary of State, and one in the office of the Department of Archives and History, and one copy thereof shall be retained in the permanent records of said board.

Section 6. As to each prisoner hereafter sentenced and received in the jails and prisons of the state, it shall be the duty of the Board while the case is still fresh to cause to be obtained and filed information as complete as may be obtainable at that time with regard to each such prisoner. Such information shall include a complete statement of the crime for which he is then sentenced, the circumstances of such crime, the nature of his sentence, the court in which he was sentenced, the name of the judge and solicitor and copies of such probation reports, as may have been made as well as reports as to the prisoner's social, physical, mental and psychiatric condition and history. It shall be the duty of the clerk of the court and of all probation officers and other appropriate officials to send such information as may be in their possession or under their control to the Board upon request. The Board shall also at that time obtain and file a copy of the complete criminal record of such prisoner that may exist. When all such existing available records have been assembled, they shall be presented to the Board or to some officer designated by it, who shall determine whether any further investigation of such prisoner is necessary at that time, and, if so, the nature of such investigation, and shall thereupon order it to be made. Such investigation shall be made while the case is still recent, and the results of them with all other information shall be filed in the office of the Department of Corrections and Institutions so as to be readily available when the parole of such prisoner is being considered. All of said reports and records shall be privileged, and inspection thereof by any person shall be subject to the discretion and judgment of said Board.

Section 7. No prisoner shall be released on parole merely as a reward for good conduct or efficient performance of duties assigned in prison, but only if the Board is of opinion that there is reasonable probability that, if such prisoner is released, he will live and remain at liberty without violating the law, and that his release is not incompatible with the welfare of society. If the Board shall so determine, such prisoner shall be allowed to go upon parole outside of prison walls and inclosure upon such terms and conditions as the Board shall prescribe, but to remain while thus on parole in the legal custody of the warden of the prison from which he is paroled, until the expiration of the maximum term

specified in his sentence, or until he is fully pardoned in the manner hereinafter provided.

Section 8. It shall be the duty of the Board, upon its own initiative to make an investigation of any and all prisoners confined in the jails and prisons of the state with a view of determining the feasibility of releasing said prisoners on parole and effecting their reclamation. Reinvestigations shall be made from time to time as the Board may determine or as the Department of Corrections and Institutions may request. The investigations shall include such reports and other information as the Board may require from the Department of Corrections and Institutions or any of its officers, agents or employees. It shall be the duty of said Department of Corrections and Institutions to cooperate with the Board for the purpose of carrying out the provisions of this act. No prisoner shall be released on parole except by a majority vote of the Board nor unless the Board is satisfied that he will be suitably employed in self-sustaining employment or that he will not become a public charge if so released.

Section 9. The Board in releasing a prisoner on parole shall specify in writing the conditions of his parole, and a copy of such conditions shall be given to the parolee. A violation of such conditions may render the prisoner liable to arrest and reimprisonment. The Board shall adopt general rules with regard to conditions of parole and their violation and may make special rules to govern particular cases. Such rules, both general and special, may include, among other things, a requirement that the parolee shall not leave the state without the consent of the Board, that he shall contribute to the support of his dependents to the best of his ability, that he shall make reparation or restitution for his crime, that he shall abandon evil associates and ways, that he shall carry out the instructions of his probation officer and in general so comport himself as such officers shall determine.

Section 10. If the probation officer having charge of a paroled prisoner or any member of the Board shall have reasonable cause to believe that such prisoner has lapsed, or is probably about to lapse, into criminal ways or company, or has violated the conditions of his parole in an important respect, such probation officer or any member of the Board shall report such fact to the Department of Corrections and Institutions who thereupon shall issue a warrant for the retaking of such prisoner and his return to the prison designated.

Section 11. Any parole officer, or any officer authorized to serve criminal process, or any peace officer to whom such warrant shall be delivered is authorized and required to execute such warrant by taking such prisoner and returning him to the prison designated by the Department of Corrections and Institutions, there to be held to await the action of the Board. Such officer,

other than an officer of the prison or probation officer, shall be entitled to receive the same fees therefor as upon the execution of a warrant of arrest at the place where said prisoner shall be retaken, and as for transporting a convict from the place of arrest to the prison, in case such officer also transports said prisoner to the prison. Such fees shall be paid out of the funds standing to the credit of the Department of Corrections and Institutions.

Section 12. Whenever there is reasonable cause to believe that a prisoner who has been paroled has violated his parole, the Board at its next meeting shall declare such prisoner to be delinquent and time owed shall date from such delinquency. The warden of each prison shall promptly notify the Board of the return of a paroled prisoner charged with violation of his parole. Thereupon, such Board shall, as soon as practicable, hold a parole court at such prison or at such other place as it may determine, and consider the case of such parole violator, who shall be given an opportunity to appear personally or by counsel before such board and produce witnesses and explain the charges made against him. The Board shall within a reasonable time act upon such charges, and may, if it sees fit, require such prisoner to serve out in prison the balance of the term for which he was originally sentenced calculated from the date of delinquency or such part thereof as it may determine.

Section 13. No person released on parole shall be discharged from parole prior to the expiration of the full maximum term for which he was sentenced unless he is sooner fully pardoned, as hereinafter provided. The Board, however, may relieve a prisoner on parole from making further reports and may permit such prisoner to leave the state, or county, if satisfied that this is for the best interests of society.

Section 14. The Board may call upon the Department of Corrections and Institutions for complete records kept of every prisoner released on parole, including such records as shall contain the finger prints, aliases and photograph of each such prisoner, and the other information referred to in this act, as well as all reports of probation officers with relation to such prisoner.

Section 15. Probation officers employed by the Board, in addition to supervision of parolees under the direction of the Board, shall cooperate with courts exercising criminal jurisdiction in supervising probationers whose sentences have been suspended or entering of judgment of conviction has been postponed by such courts; and shall make such reports to said courts as the Board, in cooperation with the courts, may direct.

Section 16. In all cases except treason and impeachment, and except in cases in which sentence of death is imposed and not commuted, as is provided by law, the Board shall have the authority and power, after conviction and not otherwise, to grant pardons

and to remit fines and forfeitures. It shall cause to be entered in a book kept for that purpose the reasons in each case, and must preserve on file all documents on which it acted in the remission of fines and forfeitures and the granting of pardons. No pardon shall relieve from civil and political disabilities unless specifically expressed in the pardon.

Section 17. Said Board may adopt and promulgate rules and regulations not inconsistent with the provisions of this act touching upon all matters herein dealt with, including, among others, practice and procedure in matters pertaining to paroles, pardons and remission of fines and forfeitures. Provided, however, that no rule or regulation adopted and promulgated by said Board shall have the effect of denying to any person whose application for parole or the revocation of whose parole is being considered by said board from having the benefit of counsel, or witnesses upon said hearing.

Section 18. There is hereby appropriated out of the State treasury for each of the fiscal years ending September 30, 1940, September 30, 1941, September 30, 1942, and September 30, 1943, for the following purposes, the following amounts: For compensation of the three members of the State Board of Pardons and Paroles, \$15,000.00; for other salaries and for other expenses, including equipment, which may be incurred under the provisions of this Act, \$35,000.00. There is further appropriated for each of said fiscal years for other salaries and other expenses, including equipment, which may be incurred under the provisions of this Act, conditional upon the approval of the Governor, \$25,000.00, payable from the sum of \$350,000.00 appropriated to the Department of Corrections and Institutions in the general quadrennial appropriation Act. The appropriation herein made for these purposes is in lieu of any and all other appropriations which may have been heretofore made for such purposes.

Section 19. That all laws and parts of laws in conflict with the provisions of this act are hereby repealed.

Section 19½. Juvenile and Domestic Relations Courts, Juvenile Courts, and Probate Courts having jurisdiction of juvenile and domestic relations cases and courts of like jurisdiction shall continue to exercise all the powers and to perform all the duties now vested therein by law with respect to suspensions of sentence, appointment of probation officers, supervision of parolees and probationers and all other matters connected with and arising out of the duties now imposed by law upon such courts in connection with juvenile and domestic relations cases, anything to the contrary contained in this Act notwithstanding.

Section 20. That this Act shall be effective from and after its passage and approval by the Governor, or its otherwise becoming a law.

Approved August 25, 1939.

No. 276)

(S. 187—St. John

AN ACT

To provide that the State of Alabama may enter into a compact with any of the United States for mutual helpfulness in relation to persons convicted of crime or offenses, who may be on probation or parole.

Be it Enacted by the Legislature of Alabama:

Section 1. The Governor of this state is hereby authorized and directed to enter into a compact on behalf of the State of Alabama with any of the United States legally joining therein in the form substantially as follows: A compact entered into by and among the contracting states, signatories hereto, with the consent of the Congress of the United States of America, granted by an act entitled "An act granting the consent of Congress to any two or more states to enter into agreements or compacts for cooperative effort and mutual assistance in the prevention of crime and for other purposes." The contracting states solemnly agree: (1) That it shall be competent for the duly constituted judicial and administrative authorities of a state party to this compact (herein called "sending state") to permit any person convicted of an offence within such state and placed on probation or released on parole to reside in any other state party to this compact (herein called "receiving state") while on probation or parole, if (a) Such person is in fact a resident of or has his family residing within the receiving state and can obtain employment there; (b) Though not a resident of the receiving state and not having his family residing there, the receiving state consents to such person being sent there. Before granting such permission, opportunity shall be granted to the receiving state to investigate the home and prospective employment of such person. A resident of the receiving state, within the meaning of this section, is one who has been an actual inhabitant of such state continuously for more than one year prior to his coming to the sending state and has not resided within the sending state more than six continuous months immediately preceding the commission of the offense for which he has been convicted. (2) That each receiving state will assume the duties of visitation of and supervision over probationers or parolees of any sending state and in the exercise of those duties will be governed by the same standards that prevail for its own probationers and parolees. (3) That duly accredited officers of a sending state may at all times enter a receiving state and there apprehend and retake any person on probation or parole. For that purpose no formalities will be required other than establishing the authority of the officer and the identity of the person to be retaken. All legal requirements to obtain extradition of fugitives from justice are hereby expressly waived on the part of states party hereto, as to such persons. The decision of the sending state to retake a person on probation or

parole shall be conclusive upon and not reviewable within the receiving state; provided, however, that if at the time when a state seeks to retake a probationer or parolee there should be pending against him within the receiving state any criminal charge, or he should be suspected of having committed within such state a criminal offense, he shall not be retaken without the consent of the receiving state until discharged from prosecution or from imprisonment for such offense. (4) That the duly accredited officers of the sending state will be permitted to transport prisoners being retaken through any and all states parties to this compact, without interference. (5) That the Governor of each state may designate an officer who, acting jointing with like officers of other contracting states, if and when appointed, shall promulgate such rules and regulations as may be deemed necessary to more effectively carry out the terms of this compact. (6) That this compact shall become operative immediately upon its ratification by any state as between it and any other state or states so ratifying. When ratified it shall have the full force and effect of law within such state, the form of ratification to be in accordance with the laws of the ratifying state. (7) That this compact shall continue in force and remain binding upon each ratifying state until renounced by it. The duties and obligations hereunder of a renouncing state shall continue as to parolees or probationers residing therein at the time of withdrawal until retaken or finally discharged by the sending state. Renunciation of this compact shall be by the same authority which ratified it, by sending six months' notice in writing of its intention to withdraw from the compact to the other states party hereto.

Section 2. If any section, sentence, subdivision or clause of this act is for any reason held invalid or to be unconstitutional, such decision shall not affect the validity of the remaining portions of this act.

Section 3. The aforesaid compact with any other states shall be deemed to have been ratified by this state when executed by the Governor of this state and such other state.

Section 4. This act may be cited as the uniform act for out-of-state parolee supervision.

Section 5. That all laws and parts of laws in conflict herewith are hereby repealed.

Section 6. That this act shall take effect immediately upon its passage and approval by the Governor, or its otherwise becoming a law.

Approved August 24, 1939.

AN ACT

To provide for a system of probation for persons convicted of crime; to authorize the suspension of the execution of sentence in criminal cases, to provide for the release and supervision on probation of persons whose sentences are suspended, to prescribe the conditions of probation, to provide for the re-arrest and commitment of probationers violating the conditions of probation, and to provide for the payment of costs of court in cases where execution of sentence is suspended.

Be it Enacted by the Legislature of Alabama:

Section 1. PROBATION AND SUSPENSION OF EXECUTION OF SENTENCE. Circuit Courts and Courts of Record from whose judgments appeal lies directly to the Court of Appeals or the Supreme Court, subject to the provisions and conditions hereinafter provided, may suspend execution of sentence and place on probation any person convicted of crime in any court exercising criminal jurisdiction. The Court shall have no power to suspend the execution of sentence imposed upon any person who has been found guilty and whose punishment is fixed at death or imprisonment in the penitentiary for more than ten years; nor in cases in which the defendant previously has been convicted and sentenced in any jurisdiction for the commission of a crime involving moral turpitude. Except in the case hereinabove provided, Circuit Courts or inferior courts from which an appeal lies directly to the Court of Appeals or Supreme Court, after a plea of guilty, or after the returning of a verdict of guilty by the jury, or the rendition of a judgment of guilty by the court may suspend execution of sentence and place the defendant on probation, or may impose a fine within the limits fixed by law and also place the defendant on probation.

Section 2. PROCEDURE ON CONVICTION IN INFERIOR COURT. Where the Court rendering judgment and imposing punishment is that of a justice of the peace, an inferior court established in lieu of justices of the peace, a county court, recorder's court, court of common pleas, law and equity court or other court of inferior jurisdiction from whose judgments appeal does not lie directly to the Court of Appeals or the Supreme Court, it shall not have the powers to suspend the execution of sentence, but such courts inferior in jurisdiction to the Circuit Court or inferior Court from which an appeal lies directly to the Court of Appeals or Supreme Court shall if request is made in writing by a defendant for the benefits of probation, stay further proceedings and certify the indictment or complaint and warrant and a copy of its judgment in such case to the Circuit Court or inferior Court from which an appeal lies directly to the Court of Appeals or Supreme Court of the county in which such inferior court exercises

criminal jurisdiction. No defendant shall be permitted to make request for the benefits of probation unless the same is made within one day after imposition of sentence. When request is so made by any such defendant, the Court of inferior jurisdiction must certify the case as hereinabove provided, to the said Circuit Court of inferior court from which an appeal lies directly to the Court of Appeals or Supreme Court within five days thereafter. It shall be the duty of the judges of the Circuit Courts or inferior courts from which an appeal lies directly to the Court of Appeals or Supreme Court when such cases are certified to said court, as early as may be practicable having in mind the interests of public justice, to hold a hearing, under such rules and regulations and in such manner as the Court may prescribe, and determine whether the Court will extend to the defendant named in said certified case the benefits of probation; and the action of the court in granting or refusing probation shall not be revisable by any other court. It shall be the duty of the solicitor of the Circuit and of all Courts inferior in jurisdiction to the Circuit Court or inferior court from which an appeal lies directly to the Court of Appeals or Supreme Court to attend upon said hearings, when directed by the circuit judge conducting the same. If any defendant who makes application for the benefits of probation to any court of inferior criminal jurisdiction is under bond, such court may continue the bond in effect, or require the defendant to execute a new bond for his appearance before the circuit court or inferior court from which an appeal lies directly to the Court of Appeals or Supreme Court. It shall be the duty of the Clerk of the Circuit Court or inferior court from which an appeal lies directly to the Court of Appeals or Supreme Court to keep a docket, which shall be known as the Probation Docket, and to enter upon said docket, in the order in which they are received, all probation cases, including those certified to the Circuit court or inferior court from which an appeal lies directly to the Court of Appeal or Supreme Court under the provisions of this Act. The clerk shall be allowed a fee of two dollars for all of his services in probation cases certified to the Circuit Court or inferior court from which an appeal lies directly to the Court of Appeals or Supreme Court, which if not paid by the probationer shall be payable out of the funds of the State Department of Corrections and Institutions as other such court costs are now paid.

Section 3. INVESTIGATION. When directed by the court the probation officer shall fully investigate and report to the Court in writing the circumstances of the offense, criminal record, social history and present condition of defendant. No defendants unless the Court shall otherwise direct, shall be placed on probation or released under suspension of sentence until the report of such investigation shall have been presented to and considered by the

court. Provided, however, that after conviction the court may continue the cause for such time as may be reasonably necessary to enable the probation officer to make his investigation and report. Whenever practicable, such investigation shall include physical and mental examinations of the defendant. If such defendant is committed to an institution, a copy of the report of such investigation shall be sent to the Department of Corrections and Institutions at the time of commitment.

Section 4. **CONDITION OF PROBATION.** The court shall determine and may at any time modify the conditions of probation and may include among them the following, or any other: That the probationer shall: (a) avoid injurious or vicious habits; (b) avoid persons or places of disreputable or harmful character; (c) report to the probation officer as directed; (d) permit the probation officer to visit him at his home or elsewhere; (e) work faithfully at suitable employments as far as possible; (f) remain within a specified place; (g) pay the fine imposed, or costs or such portions thereof as the Court may determine, and in such installments as the Court may direct; (h) make reparation or restitution to the aggrieved party for the damage or loss caused by his offense in an amount to be determined by the Court; (i) support his dependants to the best of his ability.

Section 5. A probation officer shall investigate all cases referred to him for investigation by any court or by the Department of Corrections and Institutions and shall report in writing thereon. He shall furnish to each person released on probation under his supervision a written statement of the conditions of probation and shall instruct him regarding the same. Such officer shall keep informed concerning the conduct and condition of each person on probation under his supervision by visiting, requiring reports and in other ways and shall report thereon in writing as often as the court or the Department of Corrections and Institutions may require. Such officer shall use all practicable and suitable methods, not inconsistent with the conditions imposed by the court, to aid and encourage persons on probation and to bring about improvement in their conduct and condition. Such officer shall keep detailed records of his work and shall make such reports in writing to the Department of Corrections and Institutions as it may require. A Probation officer shall have, in the executions of his duties, the powers of arrest and the same right to execute process as is now given, or that may hereafter be given by law, to the sheriffs of this state. Provided further, that all reports, records and data assembled by any probation officer and referred to the Court shall be privileged and shall not be available for public inspection except upon order of the Court to which the same was referred. And provided, however, that in no case shall the right

to inspect said report be denied the defendant or his counsel after said report has been completed or filed.

Section 6. **TERMINATION OF PROBATION. ARREST. SUBSEQUENT DISPOSITION.** The period of probation or suspension of execution of sentence shall be determined by the court and such period may be continued or extended. Upon the satisfactory fulfillment of the conditions of probation or suspension of sentence the court shall by order duly entered on its minutes discharge the defendant. At any time during the period of probation or suspension of execution of sentence, the court may issue a warrant and cause the defendant to be arrested for violating any of the conditions of probation or suspension of sentence. Any probation officer, police officer or other officer with power of arrest upon the request of the probation officer, may arrest a probationer without a warrant. In case of an arrest without a warrant the arresting officer shall have a written statement by said probation officer setting forth that the probationer has, in his judgment, violated the conditions of probation and said statement shall be sufficient warrant for the detention of said probationer in the county jail, or other appropriate place of detention, until such probationer shall be brought before the court. Such probation officer shall forthwith report such arrest and detention to the Court and submit in writing a report showing in what manner the probationer has violated probation. Thereupon the court, after a hearing, may revoke the probation or suspension of execution of sentence and shall proceed to deal with the case as if there had been no probation or suspension of execution of sentence; and, in cases certified from a court of inferior jurisdiction, shall order and adjudge that the sentence be immediately executed.

Section 7. That this act shall not authorize the suspension of sentence and probation in the case of any defendant whose sentence began prior to the effective date hereof.

Section 8. Any provision of law to the contrary notwithstanding allowances, costs and fees of officers of courts and of state witnesses in any cases in which sentence is suspended and the defendant put on probation, shall be paid in the same manner and from the same funds or sources as if no suspension of execution of sentence had intervened.

Section 9. That all laws and parts of law in conflict herewith are hereby repealed.

Section 9½. **JUVENILE AND DOMESTIC RELATIONS COURTS.** Juvenile Courts, and Probate Courts having jurisdiction of juvenile and domestic relations cases and courts of like jurisdiction shall continue to exercise all the powers and to perform all the duties now vested therein by law with respect to suspensions of sentence, appointment of probation officers, supervision of parolees and probationers and all other matters connected with

and arising out of the duties now imposed by law upon such courts in connection with juvenile and domestic relations cases, anything to the contrary contained in this Act notwithstanding.

Section 10. That this Act shall be effective from and after its passage and approval by the Governor, or its otherwise becoming a law.

Approved August 24, 1939.

No. 279)

(S. 199—Simpson)

AN ACT

To Repeal all provisions of law authorizing the imposition of indeterminate sentences as punishment for offenses committed after the effective date of this act.

Be it Enacted by the Legislature of Alabama:

Section 1. That all provisions of law authorizing judges of courts exercising criminal jurisdiction to pronounce upon the defendant an indeterminate sentence of imprisonment in the penitentiary for a term not less than the minimum nor greater than the maximum fixed by statute for such offense, stating in such sentence the minimum and maximum limits thereof, are hereby repealed.

Section 2. That this act shall not be operative upon offenses committed prior to the effective date hereof.

Section 3. That this Act shall take effect upon its passage and approval by the Governor or its otherwise becoming a law.

Approved August 24, 1939.

No. 281)

(S. 305—Young)

AN ACT

To repeal an Act entitled "An Act to authorize the creation of the Rural Electrification Authority of Alabama for the purpose of promoting and encouraging the fullest possible use of electric energy in the State by making electric energy available to certain inhabitants of the State at the lowest cost consistent with sound economy and prudent management; authorizing the Authority to sell and distribute electric energy and to construct or otherwise acquire a system or systems for the generation, transmission and distribution of electric energy to carry out the purposes of this Act; providing for the rights, powers and duties of the Authority; authorizing and regulating the issuance of bonds by the authority; and providing for the payment of such bonds and the rights of the holders thereof;" approved February 7, 1935, as amended by an Act entitled "An Act to amend the Caption and Section 1, Section 2, Paragraph (d), Section 3, Section 6, Section 9, Section 11 and Section 16 of an Act entitled, 'An Act to authorize the creation of the Rural Electrification Authority of Alabama for the purpose of promoting and encouraging the fullest possible use of electric energy in the State by

making electric energy available to certain inhabitants of the State at the lowest cost consistent with sound economy and prudent management; authorizing the Authority to sell and distribute electric energy and to construct or otherwise acquire a system or systems for the generation, transmission and distribution of electric energy to carry out the purposes of this Act; providing for the rights, powers and duties of the Authority; authorizing and regulating the issuance of bonds by the Authority; and providing for the payment of such bonds and the rights of the holders thereof," approved February 7, 1935," approved September 2, 1935.

Be it Enacted by the Legislature of Alabama:

Section 1. That an Act entitled "An Act to authorize the creation of the Rural Electrification Authority of Alabama for the purpose of promoting and encouraging the fullest possible use of electric energy in the State by making electric energy available to certain inhabitants of the State at the lowest cost consistent with sound economy and prudent management; authorizing the Authority to sell and distribute electric energy and to construct or otherwise acquire a system or systems for the generation, transmission and distribution of electric energy to carry out the purposes of this Act; providing for the rights, powers and duties of the Authority; authorizing and regulating the issuance of bonds by the authority, and providing for the payment of such bonds and the rights of the holders thereof," approved February 7, 1935, as amended by an Act entitled "An Act to amend the Caption and Section 1, Section 2, Paragraph (d), Section 3, Section 6, Section 9, Section 11 and Section 16 of an Act entitled, 'An Act to authorize the creation of the Rural Electrification Authority of Alabama for the purpose of promoting and encouraging the fullest possible use of electric energy in the State by making electric energy available to certain inhabitants of the State at the lowest cost consistent with sound economy and prudent management; authorizing the Authority to sell and distribute electric energy and to construct or otherwise acquire a system or systems for the generation, transmission and distribution of electric energy to carry out the purposes of this Act; providing for the rights, powers and duties of the Authority; authorizing and regulating the issuance of bonds by the Authority; and providing for the payment of such bonds and the rights of the holders thereof', approved February 7, 1935," approved September 2, 1935, be and the same is hereby expressly repealed.

Section 2. That all laws and parts of laws, general, special or local, in conflict with the provisions of this Act be and the same are hereby expressly repealed.

Section 3. That this Act shall become effective upon its passage and approval by the Governor or its otherwise becoming a law.

Approved August 24, 1939.

No. 283)

(H. 457—Langan, Megginson, Stone

AN ACT

To amend Section 16 of an Act entitled an Act, "To provide and create a commission form of government and to authorize the adoption of the same in all cities and towns in the State of Alabama, which now are not, or hereafter may not be, within the influence or operation of any other valid legislative enactment authorizing or adopting such form of government; to regulate the selection and election of commissioners and their terms of office and retention in and recall from office; to provide for the selection of one commissioner as mayor, and the retention in office of certain officials; to fix the powers, duties and compensation of such commissioners; to punish improper conduct in connection with elections and petitions here under; to abolish boards of public works, police commissioners, councilmen, aldermen and certain other city and town officials of such municipalities as adopt the said form of government; and generally to authorize and provide for the creation and maintenance of said commission form of government," approved April 8, 1911.

Be it Enacted by the Legislature of Alabama:

Section 1. That Section 16 of an Act entitled an Act, "To provide and create a commission form of government and to authorize the adoption of the same in all cities and towns in the State of Alabama, which now are not, or hereafter may not be, within the influence or operation of any other valid legislative enactment authorizing or adopting such form of government; to regulate the selection and election of commissioners and their terms of office and retention in and recall from office; to provide for the selection of one commissioner as mayor, and the retention in office of certain officials; to fix the powers, duties and compensation of such commissioners; to punish improper conduct in connection with elections and petitions hereunder; to abolish boards of public works, police commissioners, councilmen, aldermen and certain other city and town officials of such municipalities as adopt the said form of government; and generally to authorize and provide for the creation and maintenance of said commission form of government, approved April 8, 1911, be amended so as to read as follows: Section 16. Each commissioner of every city organized under the terms of this act shall receive a salary payable by the city in equal monthly installments for whatever time the commissioner serves, as follows: In cities of 7,500 or less population the salary of such commissioner shall be such sum not exceeding \$900.00 per annum as may be fixed by ordinance duly adopted by the board of commissioners; in cities of more than 7,500 and not exceeding 15,000 population the salary of each commissioner shall be at the rate of \$1,500.00 per year; in cities of more than 15,000 and not exceeding 50,000 population the salary of each commissioner shall be at the rate of \$100.00 per 1,000 of population of the city according to the last Federal census; and in cities of over 50,000 population the salary of each commissioner shall be

\$7,000.00 per annum until September 30, 1943, and thereafter the salary of the mayor-president of the board of commissioners shall be \$6,000.00 per annum, and the salary of each associate commissioner shall be \$5,000.00 per annum.

Section 2. That all laws or parts of laws in conflict herewith are hereby expressly repealed.

Section 3. That this Act shall take effect upon its approval by the Governor, or its otherwise becoming a law.

Approved August 25, 1939.

No. 289)

(H. 683—Langan

AN ACT

To amend Section 5 of an Act entitled an Act, "To provide and create a commission form of government and to authorize the adoption of the same in all cities and towns in the State of Alabama, which now are not, or hereafter may not be, within the influence or operation of any other valid legislative enactment authorizing or adopting such form of government; to regulate the selection and election of commissioners and their terms of office and retention in and recall from office; to provide for the selection of one commissioner as mayor, and the retention in office of certain officials; to fix the powers, duties and compensation of such commissioners; to punish improper conduct in connection with elections and petitions hereunder; to abolish boards of public works, police commissioners, councilmen, aldermen and certain other city and town officials of such municipalities as adopt the said form of government; and generally to authorize and provide for the creation and maintenance of said commission form of government," approved April 8, 1911.

Be it Enacted by the Legislature of Alabama:

Section 1. That Section 5 of an Act entitled an Act, "To provide and create a commission form of government and to authorize the adoption of the same in all cities and towns in the State of Alabama, which now are not, or hereafter may not be, within the influence or operation of any other valid legislative enactment authorizing or adopting such form of government; to regulate the selection and election of commissioners and their terms of office and retention in and recall from office; to provide for the selection of one commissioner as mayor and the retention in office of certain officials; to fix the powers, duties and compensation of such commissioners; to punish improper conduct in connection with elections and petitions hereunder; to abolish boards of public works, police commissioners, councilmen, aldermen, and certain other city and town officials of such municipalities as adopt the said form of government; and generally to authorize and provide for the creation and maintenance of said commission form of government, approved April 8, 1911, be amended so as to read as follows: Section 5.—That the commissioners provided for in the preceding section shall be known collectively as the board of commissioners

of such city, and shall have the powers and duties hereinafter provided, and each of said commissioners shall qualify for office in the manner prescribed in section thirteen of this article, on or before the second Monday following the date of the election by which the board is filled or completed. As soon as they thus shall have qualified for office, then such city shall then and there be and become organized under the commission form of government provided under this article, and all three of said commissioners shall forthwith take office and enter upon their duties. Immediately upon said commissioners taking office, they, by a majority vote, shall elect one of their number as mayor, and he shall also be president of the board of commissioners of said city, unless in this article otherwise provided, and, in addition to the other duties and powers given him by the provisions of this article, shall be invested with all of the powers, jurisdiction and functions, and be charged with all the duties which may be conferred or imposed upon him by said board, except that he shall not have the power to veto any ordinance. Provided however, that in every city or organized under the provisions of this article having a population of sixty-five thousand or more according to the last or any subsequent federal census the candidate for commissioner shall set out in his statement of candidacy, which he files with the commission to qualify for the election, the position he seeks on the board of commissioners, whether it be that of mayor-president or associate commissioner. One of the members of the board of commissioners in such city shall be designated as holding and elected to the position of mayor-president of the board, and the other two commissioners as holding and elected to the positions of associate commissioners. The person elected to the position of mayor-president of the board of commissioners shall have assigned to his position all powers, jurisdiction and duties pertaining to the functioning, operation and maintenance of the finance department, waterworks department, purchasing, revenue and budgeting departments. One of the persons elected to the position of associate commissioner shall have assigned to him by a majority vote of the commission all the powers, jurisdiction and duties pertaining to the functioning, operation and maintenance of the fire police, health and sewer departments, and the other person elected to the position of associate commissioner shall have assigned to his position all powers, jurisdiction and duties pertaining to the functioning, operation and maintenance of parks, docks, streets, public buildings and city airport. That such additional duties may be imposed upon the commissioners in each position as may be designated by the board of commissioners.

Section 2. That all laws or parts of laws in conflict herewith are hereby expressly repealed.

Section 3. That this Act shall take effect upon its approval by the Governor, or its otherwise becoming a law.

Approved August 25, 1939.

No. 292)

(S. 332—Simpson & McCall

AN ACT

To provide for the use of voting machines for registering, recording and computing the votes at all elections in any county, municipality, or other political subdivision of the State: to provide for referendum elections for voting for or against the use of voting machines in counties, cities or other political subdivisions of the State: to provide by local act for permitting the governing body of any county, municipality or other political subdivision to install voting machines without first submitting the question to the vote of the qualified electors: to provide for the method of procurement and installation of voting machines by rental, lease or purchase, and the terms thereof: to provide for the discontinuance of the use of voting machines: to provide for the mechanical qualifications, construction and requirements of voting machines: to provide for adequate guarantees by manufacturers, vendors and lessors of voting machines: to provide for the payment for voting machines: to provide for the demonstration of voting machines by renting, leasing or borrowing: to provide for the furnishing and delivery of election supplies: to provide for the preparation of voting machines for elections: to provide for the opening of the polls: to provide for the instruction of election officials: to provide for election officials and their duties at elections: to provide for the voting of challenged ballots: to provide for the nomination of candidates in primary elections when only one candidate qualifies for an office, by omitting said name and office from the ballot: to provide for the instruction of voters before an election: to provide for the instruction and assistance of voters on election day: to provide for models and diagrams: to provide for the voting of irregular ballots: to provide for the voting of absentee ballots: to provide for the repair or substitution of voting machines and the use of paper ballots: to provide for ballot labels to be used on voting machines: to provide for the hours of voting: to provide for the canvass of the vote and proclamation of the results: to provide for a statement of the canvass of the vote: to provide for the preservation of ballots and the records of voting machines: to provide for the appointment of custodians: to provide for the custody of voting machines and the keys thereof: to provide for the recanvass of votes: to provide for the regulation of the use of voting machines in cities, towns or other political subdivisions: to provide penalties for the violations of this act and of rules and regulations pursuant thereto: to repeal all laws and parts of laws inconsistent with the provisions hereof: and to establish the manner of the taking effect of this act.

Be it Enacted by the Legislature of Alabama:

Section 1. DEFINITION OF TERMS. The list of offices and candidates, and the statements of questions on the Voting Machine shall be deemed an "official ballot". As used in this Act: (a) the words "ballot labels" shall mean the cards, paper or other material, containing the names of offices and candidates and statements of questions to be voted on. (b) The word "diagram" shall mean an

illustration of the official ballot, when placed upon the machine, showing the names of the parties, offices and candidates, and statements of the questions, in their proper places, together with the voting devices therefor, and shall be considered a specimen ballot. (c) The word "question" shall mean a statement of such constitutional amendment or other proposition as shall be submitted to a popular vote at any election. (d) The words "irregular" ballot shall mean the paper or other material on which a vote is cast on a voting machine for persons whose names do not appear on the ballot label. (e) The words "candidate counters", and "question counters" shall mean the counters on which are registered numerically the votes cast for candidates, and on questions, respectively. (f) The words "public counter" shall mean a counter or other device which shall publicly indicate how many times the machine has been operated at an election. (g) The words "protective counter" shall mean a counter or protective device or devices that will register each time the machine is operated, and shall be constructed and so connected that it cannot be reset, altered or operated, except by operating the machine. (h) The words "voting machine booth" shall mean the enclosure occupied by the voter when voting. (i) The word "model" shall mean a mechanically operating model of a portion of the face of the machine, illustrating the manner of voting. (j) The word "custodian" shall mean the person charged with the storing and caring for the voting machines when not in use in elections. (k) The words "election" and "elections" whenever used in this act, shall be held to include and mean all general, municipal, primary, bond, tax rate, school and special elections of any kind. (l) The word "Seal" and other words of the singular number relative thereto, shall include the plural number as applied to a voting machine, designed to be made secure with two or more seals. (m) The words "City Commissioner" shall mean any municipal authority by whatever name called that is legally constituted to supervise and manage the affairs of the town or city or other like political subdivision of the state. (n) The words "County Board" shall include the County Commission, Board of Revenue, or other like governing body of any county, and said words shall mean any county authority by whatever name called that is legally constituted to supervise and manage the affairs of the county. (o) The use of the words "county", "city", or "municipality" shall not be interpreted to exclude from the use of voting machines any other political subdivision of the state, but the same laws, rules and regulations that apply to the use of the voting machines in counties, cities or municipalities shall apply to other political subdivisions of the state so far as they are applicable and pertinent.

Section 2. AUTHORIZATION OF VOTING MACHINES.

(a) Any county or city or other political subdivision of the state may, by a majority vote of its qualified electors voting thereon at

any general, primary, special or municipal election, authorize and direct the use of voting machines for registering or recording and computing the vote at all elections held in such county or city, or other political subdivision of the state. (b) The legislature may, by local act, permit the governing body of any county, municipality, or other political subdivision of the state to install voting machines therein without first submitting the question of the installation of voting machines to a vote of the qualified electors of such political subdivision.

Section 3. REFERENDUM: ADOPTION OF VOTING MACHINES. (a) The county board of any county, may, upon their own motion, submit to the qualified electors of the county, at any general, special or primary election, the question, "Shall voting machines be used in the County of _____?" (b) The city commission may, upon their own motion, submit to the qualified electors of the city, at any general, special, primary or municipal election, the question, "Shall voting machines be used in the City of _____?" (c) The county board, upon the filing of a petition with them signed by qualified voters of the county equal in number to at least 5% of the total number of electors who voted in said county at the last preceding general, special or primary elections, but in no case less than 50, unless the total number of electors who voted therein at the last preceding general, special or primary election was less than 100, in which case one-half of the number voting shall be sufficient, shall, at the next general, special or primary election occurring at least 30 days thereafter, submit to the qualified electors of such county, the question, "Shall voting machines be used in the County of _____?" (d) The city commission, upon the filing of a petition with them signed by qualified electors of the city equal in number to at least 5% of the total number of electors who voted in said city at the last preceding general, special, primary or municipal election, but in no case less than 50, unless the total number of electors who voted therein at the last preceding general, special, primary or municipal election was less than 100, in which case one-half of the number so voting shall be sufficient, shall, at the next general, special, primary or municipal election, occurring at least 30 days thereafter, submit to the qualified electors of such city, the question, "Shall voting machines be used in the City of _____?" (e) The county board or the city commission shall cause the said question to be printed upon the ballots to be used at the election, in the form and manner provided by the laws governing general, special, primary or municipal elections. (f) The election on said question shall be held at the places, during the hours, and under the regulations provided by law for holding general, special, primary and municipal elections, and shall be conducted by the election officers provided by law to conduct such elections. The election officers shall count the votes

cast at the election on said question, and shall make return thereof in county elections to the county board, as required by law, and, in municipal elections, to the city commission, as required by law. Said returns shall be computed by the clerk of the county board or by the city clerk, as the case may be, and, when so computed, a certificate of the total number of electors voting "yes" and of the total number of electors voting "no" on such question shall be filed in the office of the county board in county elections, and in the office of the city commission in municipal elections; and copies of said certificates, certified by the respective governing bodies, shall forthwith be furnished to the Secretary of State. (g) If a majority of the electors of any county or city or other political subdivision of the state, voting on such question, shall vote against the adoption of voting machines, no officers of said county or city or other political subdivision of the state shall authorize the use of voting machines nor shall the question again be submitted to the voters of such political subdivision within a period of two years. (h) In the event a county, municipality, or other political subdivision of the state shall vote in the majority, authorizing and directing the use of voting machines at elections as provided in Section 2 hereof, or in the event the county, municipality or other political subdivision of the state, through its proper officers, in pursuance of appropriate legislation, shall authorize and direct the use of voting machines at elections as herein otherwise provided, the county board or city commission shall either purchase the necessary number of voting machines for said county, municipality, or other political subdivision of the state under the conditions and requirements set out herein, or shall rent or lease the necessary number of voting machines for said county, municipality, or other political subdivision of the state, with or without option to purchase said machines, at fair and reasonable rental or lease prices which shall not exceed 10% of the purchase price of said machines; or such county, municipality, or other political subdivision may request the State Department of Finance to acquire the requisite number of voting machines for it under the existing provisions of law; or such county, municipality, or other political subdivision may make such request from any board, commission or authority of the State, which may now or hereafter be provided by law.

Section 4. INSTALLATION OF VOTING MACHINES.

(a) Where voting machines have been adopted for any county, municipality, or other political subdivision of the state, or for any portion of such county, municipality, or other political subdivision, the county board or the city commission shall, as soon as practicable and in no case later than six months after the adoption thereof, provide for each voting ward or precinct or beat designated, one or more approved voting machines, in complete working order, and shall thereafter preserve and keep them in repair. (b) In each

voting place in which voting machines are used, the county board or city commission shall provide by rental, lease or purchase, at least one voting machine for each six hundred registered voters or fraction thereof, therein. (c) The county board or city commission may, at its discretion, elect not to install voting machines in any ward, precinct or beat having less than one hundred registered voters; provided that, after the adoption of the use of voting machines by any county or municipality, upon a petition signed by a majority of the registered voters in any such ward or precinct or beat, the county board or city commission may be required to install voting machines in such ward or precinct or beat for use in any election held after 90 days from the filing of such petition. (d) Upon the installation of voting machines in any voting place, the use of paper ballots therein shall be discontinued, except as otherwise provided herein. (e) Wherever, by reason of any constitutional or other legal debt limitation, it shall be impossible for any county or municipality to provide voting machines by either rental, lease or purchase for each election district, as provided herein, then it shall provide as many machines as it shall be possible to procure, and, as soon thereafter as possible, shall provide the remainder of such machines required hereunder. The machines so provided shall be first installed in wards or precincts or beats having the largest number of registered voters. (f) Any county or city may, by a majority vote of all its qualified electors cast at any primary election held not earlier than six years after the adoption and installation of such machines, direct the discontinuance of the use of voting machines at elections held in such county or city. The question of the discontinuance of the use of such voting machines shall be submitted to the voters, subject to the same requirements as to resolution or petition and signatures thereon as is required for the submission of the question on the authorization of the use of such voting machines. Where the qualified electors of any city and the qualified electors of the entire county containing therein such city, both have voted by separate questions in favor of the adoption of the use of voting machines, or where any county and any city within any such county, through its proper officers, in pursuance of appropriate legislation, shall have separately authorized and directed the use of voting machines, a subsequent vote by the qualified electors of the entire county in favor of discontinuance will not be considered as a vote to discontinue the use of voting machines in such city. Such question as to the discontinuance of the use of voting machines shall be submitted in the following form: "Shall the use of voting machines be continued in the (city or county) of.....?" (g) When the use of voting machines is adopted in and for any voting precinct within any county or municipality, then voting machines must be used in all general, primary, municipal, and special elections held thereafter in any such voting precinct.

Section 5. REQUIREMENTS OF VOTING MACHINES.—

No voting machine shall be installed for use in any election in this state unless it shall satisfy the following requirements: (a) It shall provide facilities for voting for such candidates as may be nominated, and upon such questions as may be submitted. (b) It shall permit each voter, at other than primary elections, to vote a straight political party ticket in one operation, and, in one operation, to vote for all the candidates of one political party for presidential electors, and, in one operation, to vote for all the candidates of one political party for every office to be voted for; except those offices as to which he votes for individual candidates. (c) It shall permit each voter, at other than primary elections, to vote a ticket selected from the nominees of any and all political parties, from the nominees of any and all political bodies, and from persons not in nomination. (d) It shall permit each voter to vote, at any election, for any person and for any office for whom and for which he is lawfully entitled to vote, whether or not the name of such person appears upon a ballot, at other than primary elections, as a candidate for nomination or election, as many persons for an office as he is entitled to vote for, and to vote for or against any question upon which he is entitled to vote. (e) It shall preclude each voter from voting for any candidate or upon any question for whom or upon which he is not entitled to vote, and from voting for more persons or any office than he is entitled to vote for, and from voting for any candidate for the same office or upon any question more than once. (f) It shall permit each voter to deposit, write in, or affix upon receptacles or devices provided for the purpose, ballots containing the names of persons for whom he desires to vote, whose names do not appear upon the machine except in primary elections. (g) It shall permit each voter to change his vote for any candidate, or upon any question appearing upon the ballot labels, up to the time he begins the final operation to register his vote. (h) It shall permit and require voting in absolute secrecy and shall be so constructed that no person can see or know for whom any other elector has voted or is voting, save a voter whom he has assisted or is assisting in voting, as prescribed by law. (i) It shall have voting devices for separate candidates and questions, which shall be arranged in separate parallel rows or columns, so that, at any primary election, one or more adjacent rows or columns may be assigned to the candidates of a party, and shall have parallel office columns or rows transverse thereto. (j) It shall have a counter or other device which shall show during any period of voting the total number of voters who have operated the machine during said period of voting. (k) It shall have a protective counter, or other device, the register of which cannot be reset, which shall record the cumulative total number of movements of the operating mechanism. (l) It shall be provided with a lock or locks, by the use of which, immediately after the polls are

closed, or the operation of the machine for an election is completed, all movement of the registering mechanism is absolutely prevented. (m) It shall be provided with a screen, hood, or curtain, which shall conceal the actions of the voter while voting. (n) It shall, when properly operated, register or record correctly and accurately every vote cast. (o) It shall be constructed of material of good quality, in a neat and workmanlike manner. (p) It shall be so constructed that a voter may readily learn the method of operating it. (q) It shall be safely transportable. (r) It shall be so constructed and controlled that, during the progress of voting, it shall preclude every person from seeing or knowing the number of votes registered for any candidate, and from tampering with any of the registering mechanism. (s) It shall be so constructed and equipped with devices or attachments as to comply with the "single short" provisions of the Alabama election laws, whenever and wherever such provisions are applicable at elections in said state. (t) It shall be so constructed as to permit the casting and recording of challenged votes by means of the "irregular ballot" method or shall be equipped with such devices and attachments as to allow the casting and recording of challenged votes, as provided by law. Before any voting machine is purchased, rented, or leased, the person or corporation owning or manufacturing such machine must give an adequate guarantee, in writing, securing that such machines comply fully with the above requirements and will correctly, accurately and continuously register and record every vote cast.

Section 6. PAYMENT FOR MACHINES. — The county board or city commission or such other authority as levies the taxes for county or city purposes of any county or city which adopts the use of voting machines, shall, upon the purchase, rental, or lease thereof, provide for payment therefor by the county or city; provided, however, that bonds or other evidences of indebtedness, payable not later than 15 years from their dates of issuance, may be issued in accordance with the provisions of law relating to the increase of indebtedness of counties or cities, to meet all or any part of the cost of the voting machines.

Section 7. DEMONSTRATION OF VOTING MACHINE.—Whenever a referendum is about to be held upon the adoption of the use of voting machines in any county or city, the county board or city commission may lease or borrow a reasonable number of voting machines for demonstration purposes in such county or city, prior to such referendum.

Section 8. ELECTION SUPPLIES.—Ballot labels, diagrams, seals, and all other necessary election supplies for use on voting machines in general, special, primary, or municipal elections shall be prepared and printed by the same authorities now charged by law with the duty of preparing, printing, and furnishing the same.

Section 9. PREPARATION OF VOTING MACHINES.—It

shall be the duty of the Judge of Probate of each county where voting machines are used in county elections, and of the city clerk in each municipality where voting machines are used in municipal elections, to cause the proper ballot labels to be placed on voting machines; to cause the machines to be placed in proper order for voting; to examine all voting machines in the presence of authorized watchers for any interested persons, before they are sent out to the polling places; to see that all the registering counters are set at zero (000); to lock, in the presence of authorized watchers, all voting machines so that the counting machinery cannot be operated and to seal each one with a numbered seal, a list of which numbered seals and the number on the protective counters, together with the number of the precinct to which it was sent, in all elections shall be kept as a permanent record open to any citizen, in the records of the Probate Judge. Such inspection and sealing of voting machines shall begin not later than 9 A.M. of the Saturday before any election at which such machines are to be used, and continue until all such machines are sealed. When all machines are locked and sealed, the key to each machine shall be placed in an envelope and sealed, the signature of the Judge of Probate or of the city clerk, as the case may be, and the signature of two watchers of opposed interest (if such there be) placed across the seal, and on the envelope shall be written the number then on the protective counter and the number on the seal of the voting machine, such envelope to be delivered to the inspector of each election district. It shall be the duty of the sheriff in all elections which the county is charged with the expense of, the duty of the city clerk in a city election, the duty of the president of the school board in school elections, and the duty of the authority holding other elections of any character, to have delivered a voting machine, or machines, together with an instruction model for each machine, showing a portion of the face of such machine in use at such election, to each and every polling place where same is required by law to be used, at least one hour before the time set for the opening of the polls in such voting precinct. After the machine has been delivered, the same authority shall cause such machine to be set up in the proper manner and cause protection to be given so such machine shall be free from molestation and injury. The protective curtains shall be examined to see that they conceal the actions of the voter properly, while such voter is operating the machine. All poll lists and necessary supplies shall be delivered to the inspector at the same time the key or keys to the machine are delivered.

Section 10. PRELIMINARIES OF OPENING THE POLLS.
 —The key or keys to the voting machine or machines shall be delivered to the inspector of each poll, at least thirty minutes before the time for opening of the polls, the seal of the envelope containing the same to be unbroken, and the seal shall be broken by the in-

spector only in the presence of at least two authorized watchers for opposing interests (if such there be), and shall only be broken after comparison shows that the number written on the envelope and the number shown in the protective counter are identical. If these numbers are found not to be the same, the seal shall not be broken until the Judge of Probate or the city clerk, as the case may be, or their representative, shall arrive and deliver the correct keys or until another and properly sealed machine is delivered. If the numbers written on the envelope and the respective numbers on the seal and on the protective counter are found to be the same, the inspector shall open the doors concealing the counters, and, before the polls are declared open, the election officials and each authorized watcher, or any person interested, shall carefully examine each and every counter and see that it registers zero (000). All of those last enumerated then shall examine the ballots and satisfy themselves they are in their proper places on the machine. The election officials shall cause to be conspicuously placed the sample ballots and model for the guidance of the voters. All of the persons authorized to be in the polls shall satisfy themselves that the voting machine is properly placed, and that the face of the machine is turned toward where the election officials and the public may obtain a clear and unobstructed view of the same at all times, except when the curtain on the machine is closed for the casting of the ballot. The election officials and at least two watchers of opposing interests (if any there be) shall then sign a certificate setting out that the keys were delivered intact, that the numbers on the protective counter and the seal correspond with that on the envelope, that all the counters were set at zero (000), and that the ballot labels were in their proper places. If any counter, however, shall be found not to register zero (000), the inspector shall write out a statement to that effect and keep the same prominently posted throughout the day, showing the number that counter was found to register, and in filling out the statement of canvass, he shall subtract such number from the number found to register on that counter when the polls close. The machine shall then be opened for voting and the polls formally declared open.

Section 11. INSTRUCTION OF ELECTION OFFICIALS.—

(a) Not less than five days before an election or primary election, the authority charged with holding the same shall cause to be held a school of instruction for those who will actually conduct the election or primary election at the polling places. The sheriff shall notify such election officials of the time and place of the holding of such school of instruction, and shall also publish notice at least 48 hours before the same is to be held. (b) No election official shall serve in any election district in which a voting machine is used, unless he shall have received such instruction and is fully qualified to perform the duties in connection with the machine, and has re-

ceived a certificate from the authorized instructor to that effect; provided, however, that this shall not prevent the appointment of an uninstructed person as an election official to fill a vacancy among the election officials.

Section 12. DELIVERY OF VOTING MACHINE SUPPLIES TO ELECTION OFFICERS.—The authority designated in Section 10 hereinabove shall furnish and deliver with each voting machine: (1) Lighting facilities which shall give sufficient light to enable voters, while in the voting machine booth, to read the ballot labels, and suitable for the use of election officers in examining the counters. The lantern, or proper substitute therefor, shall be prepared and in good order for use before the opening of the polls. (2) A model and two diagrams or sample ballots, of suitable size, representing such part of the face of such voting machine as will be in use in the election, and accompanied by directions for voting on the machine. Such diagrams shall be posted prominently outside, for the instruction of electors. Such model shall be placed in the polling place and at or outside of the guard-rail or barrier. (3) A seal, or seals, for sealing the machine after the polls are closed. (4) An envelope for the return of the keys, if the construction of the voting machine shall permit their separate return. (5) Such other election materials and supplies as may be necessary, or as may be required by law.

Section 13. GENERAL PROVISIONS.—(a) The election officers for each voting machine shall consist of an inspector, a chief clerk, and a first and second assistant clerk. The inspector shall be in general charge of the poll and shall see that the chief clerk properly marks off from the poll list, and that the first assistant clerk properly records, the name of each voter before such voter casts his ballot, and shall keep such other records as are required by law. It shall be the duty of the second assistant clerk to attend the voting machine at all times and to see that it is not tampered with. The second assistant clerk shall also inspect the ballot labels at frequent intervals to see that none have been tampered with and to see that the machine has not been injured. The inspector shall see that the counter compartments of the machine are never unlocked or opened so that the counters are exposed during voting. (b) The election officers shall ascertain, as required by law, whether each applicant to vote is entitled to vote. If he is found to be entitled to vote, he shall be admitted within the voting machine booth, and shall be permitted to vote. No voter shall remain within the voting machine booth an unreasonable length of time, and in no event longer than three minutes, and, if he shall refuse to leave after a reasonable period, he shall be removed by the election officers; provided, however, that they may grant him a longer time if other voters are not waiting to vote. (c) All laws now existing or as hereafter amended relating to the challenging

of voters shall, in so far as practicable, relate to elections held with voting machines. (d) Wherever in any election held under the provisions of this act, the right of any voter to cast his ballot shall have been challenged under the provisions of law referred to in Section 13 (c) hereinabove, such challenged voter, after having first complied with provisions of the laws referred to in Section 13 (c) hereinabove, shall be permitted to cast his ballot on the voting machine by means of the "irregular ballot" method or by means of the device or devices specifically provided for the casting of challenged votes.

Section 14. NAME AND OFFICE OMITTED FROM BALLOT IN PRIMARY ELECTIONS WHERE ONLY ONE CANDIDATE QUALIFIED.—Whenever there is only one declaration of candidacy and qualification in a political party for the nomination for any office, the name of the person filing such declaration and so qualifying shall be declared the nominee of such party for the office for which he has announced his candidacy, and his name and the office shall be omitted from the ballot, in the primary election.

Section 15. INSTRUCTION OF VOTERS BEFORE AN ELECTION.—(a) During the thirty days next preceding an election, the city commission in municipal elections, and the county board in all other elections, shall place on public exhibition, in such public places and at such times as it may deem most suitable for the information and instruction of the voters, one or more voting machines, containing the ballot labels, and showing the offices and questions to be voted upon, the names and arrangements of parties, and, so far as practicable, the names and arrangements of the candidates to be voted for. Such machine or machines shall be under the charge and care of a person competent as custodian and instructor. No voting machine which is to be assigned for use in an election shall be used for such public exhibition and instruction after having been prepared and sealed for the election. (b) Prior to any election, the county board or city commission, as the case may be, may cause copies of any diagram or diagrams, required to be furnished with voting machines at polling places, to be made, either in full size or in reduced size, and to be posted, published, advertised or distributed among the electors in such manner as they may deem desirable.

Section 16. INSTRUCTION AND ASSISTANCE FOR VOTERS AT THE POLLS.—(a) The election officers shall, with the aid of the diagrams herein authorized, and the mechanically operated model, instruct each voter before he enters the voting machine booth, regarding the operation of the machine, and shall give the voter opportunity personally to operate the model. (b) No voter shall be permitted to receive any assistance in voting at any election, unless he shall first state in writing upon printed forms

supplied for that purpose and under oath or affirmation, which shall be administered to him by the inspector, that he cannot read the names on the voting machine, or that, by reason of physical disability, he is unable to see the machine or prepare it for voting, or to enter the voting machine booth without assistance. The voter shall state the specific physical disability which requires him to receive assistance. Thereupon he shall be assisted by one of the election officials, who shall aid him in voting, and the inspector shall forthwith enter in writing on the record of assisted voters; (1) the voter's name; (2) the fact that the voter cannot read the names on the voting machine, if that be the reason for requiring assistance, and, otherwise, the specific physical disability which requires him to receive assistance; and (3) the name of the election official furnishing the assistance; but (c) If any voter, after entering the voting machine booth, and before the closing of such booth, shall ask for further instructions concerning the manner of voting, he may choose an election officer, who shall give him such instructions, but no official giving a voter such instructions shall, in any manner, request, suggest, or seek to persuade or induce any such voter to vote any particular ticket, or for any particular candidate, or for or against any particular question. After giving such instructions, and before the elector closes the booth or votes, the election officer shall retire, and the voter shall forthwith vote.

Section 17. VOTING BY IRREGULAR BALLOT.—Ballots other than challenged ballots, voted for any persons whose name does not appear on the ballot, shall be designated "irregular ballots". In the event a voter desires to vote an "irregular ballot", such person shall write the name of the person whom he desires to vote for on the roll of paper or other device designated on the voting machine for that purpose, and such "irregular ballot" shall be counted and included in the canvass officially made, but no "irregular ballot" shall be cast or counted for any person whose name shall appear on the ballot label, excepting challenged ballots cast under the provisions of this act. "Irregular ballots" shall not apply to nor be cast in primary elections.

Section 18. ABSENTEE BALLOTS.—Absentee ballots, if any, shall be cast in the usual manner and under the laws and regulations as now provided or as hereafter amended, and voting machines shall not be required for the casting of absentee ballots.

Section 19. REPAIR OF MACHINE, OR USE OF PAPER BALLOTS.—(a) If any voting machine being used in any election shall become out of order during such election, it shall, if possible, be repaired or another machine substituted by the authority holding such election, as promptly as possible, for which purpose the county board or city commission may purchase, rent, or lease as many extra voting machines as they may deem necessary, but in case such repair or substitution cannot be made, paper ballots, printed

or written, and of any suitable form, may be used for the taking of votes. (b) In the event the use of paper ballots becomes necessary, as set out in Section 19 (a) hereinabove, the authority holding such election shall provide a ballot box or similar appropriate receptacle for the deposit of the ballots, and such other supplies as may be necessarily incident to voting by paper ballot. (c) In the event the use of paper ballots becomes necessary as hereinabove provided, such use of paper ballots shall be in all respects as required by law.

Section 20. POLLS: HOW LONG OPEN.—The polls must be opened and closed at each place of voting, in each ward or precinct or beat where voting machines are used, as provided by the laws of Alabama.

Section 21. CANVASS OF THE VOTE AND THE PROCLAMATION OF THE RESULT.—When the time arrives for closing the polls, all qualified voters, who are then waiting within the voting room to vote, shall be permitted by the election officers to do so. As soon as the last voter has voted and the poll closed, the election officials shall immediately lock the machines against voting. They shall then sign a certificate stating that the machine was locked and sealed, giving the exact time; such certificate also stating the number of voters shown on the public counters, which shall be the total number of votes cast on such machine in that precinct; the number on the seal; and the number registered on the protective counter. They shall then open the counting compartment in the presence of the watchers, and of at least one representative of any newspaper or press association which cares to be represented, giving full view of all the counter numbers. The inspector shall, under the scrutiny of the watchers, in the order of the officers, as their titles are arranged on the machines, read and announce in distinct tones the designating number and letter on each counter for each candidate's name, if the construction of the voting machine is such as to require a designating number and letter; the result as shown by the counter numbers; and shall then read the votes recorded for each office on the "irregular ballots"; and shall also read and the clerk shall tally the totals of all challenged ballots cast under the provisions of this act. He shall also in the same manner announce the result on each Constitutional amendment, bond proposition, or any other question voted on. The vote as registered shall be entered on the statements of canvass in ink by the Clerks, such entries to be made in the same order on the space which has the same designating number and letter, if the construction of the voting machine is such as to require a designating number and letter, after which the figures shall again be verified by being called off in the same manner from the counters of the machines. The returns of the canvass as required by law shall then be filled out, verified, and shall show the number of votes cast

for each candidate, the number of votes cast for and against any proposition submitted, and shall be signed by the election officials. The counter compartments of the voting machine shall remain open throughout the time of the making of all statements and certificates, and the official returns, and until such have been fully verified; and during such time the watchers of any candidate or any representative of any newspaper shall be admitted. The proclamation of the result of the votes cast shall be deliberately announced in a distinct voice by the inspector, who shall read the names of each candidate, with the designating number and letter, if the construction of the voting machine is such as to require a designating number and letter; of his counter and the vote registered on such counter; also the vote cast for and against each proposition submitted. During such proclamation ample opportunity shall be given to any person lawfully entitled to be in the polls to compare the results announced with the counter dials of the machine and any necessary corrections shall then and there be made, after which the doors of the voting machine shall be locked and sealed with the seal provided, so sealing the operating lever or electrical control, if an electrically operated machine, so that the voting and counting mechanism will be prevented from operation. Irregular and challenged ballots, properly sealed, and signed, shall be filed with the original statement of canvass, which canvass shall be delivered in the same manner and to the same authorities as now provided by law. The inspector shall deliver to the chairman of the county executive committee in all primary elections, the city clerk in all municipal elections, and the county board in all other elections, the keys of the machine, enclosed in a sealed envelope, across the seal of which shall be written his own name, together with that of the other election officials, and on this envelope shall be recorded the date of the election, the number of the voting district, the number of the seal with which the machine was sealed, the number of the public counter, and the number on the protective counter.

Section 22. STATEMENTS OF CANVASS.—The authority charged with the holding of an election or primary election where voting machines shall be used, shall cause to be prepared a statement of canvass of a form to be approved by the Judge of Probate, in the necessary number as now required to be used by law, such statement of canvass to conform with the type of voting machine to be used, and the designating number and letter, if the construction of the voting machine is such as to require a designating number and letter, of each candidate (or proposition) shall be printed next to the candidate's name on the statement of canvass. Said statements of canvass shall be permanently preserved by the Probate Judge for use in the event of contests. Provided that, in the event the constructions and design of the voting machine is such as to permit of photographing the name of the candidate or the

question, together with the total vote cast on their respective counters, said photograph may be taken and kept as a permanent record for use in event of a contest.

Section 23. PRESERVATION OF BALLOTS AND RECORDS OF VOTING MACHINES.—The voting machine shall remain locked against voting for the time as provided by law for the filing of contest, and then shall have the seal broken only on the order of that body which, under the general provisions of law, now have charge of and control over ballot boxes in that county, municipality, or other political subdivision, and if, in the opinion of such body, a contest is likely to develop, shall remain locked for the time as provided by law for the filing of contests. Except that, on the order of any court of competent jurisdiction or on the order of any legislative body or governing body having jurisdiction over such election, the seal may be broken for the purpose of proper investigation and, when such investigation is completed, the machine shall again be sealed and across the envelope containing the keys shall be written the signature of the person or persons having broken same. Irregular and challenged ballots shall be preserved in the same manner and for the same length of time as now provided by law for other ballots.

Section 24. CUSTODY OF VOTING MACHINES AND THE KEYS THEREOF.—(a) The governing body of any county, municipality, or other political subdivision of the state procuring voting machines shall designate a person or persons who shall have the custody of the voting machines and the keys therefor, when the machines are not in use at an election; and shall provide for his compensation and for the safe storage and care of the machines and keys. (b) All voting machines, when not in use, shall be properly boxed or covered, and stored in a suitable place or places, by said custodian. (c) The same authority that caused the delivery of the voting machines shall be charged with the transporting such machines back to the said custodian, and shall furnish all necessary protection to see that such machines are not molested nor injured from the time such machines leave the place where they are regularly stored until they are turned into the custody of the officials of a voting district and from the time that custody ceases on the part of the voting district officials and the machines are returned to the place of regular storage.

Section 25. PROVISIONS FOR RECANVASS OF VOTES.—Any person now authorized by law may apply to the body which, under the general provisions of law, now have charge of and control over ballot boxes, for an order to break the seals of a voting machine for the purpose of recanvassing the vote should same become necessary, whereupon all the other articles in the "Act to regulate and control primary election for the nomination by political parties of candidates for public office" and in the "Election

Code" shall be followed in making such recanvass and the machine shall be revealed as herein provided.

Section 26. APPLICATION OF LAWS TO USE OF VOTING MACHINES IN MUNICIPALITIES OR OTHER POLITICAL SUBDIVISIONS.—In the event a city or town or other political subdivision of the state within any county, votes for the use of voting machines, as herein provided, the pertinent and necessary laws and requirements pertaining to the use of voting machines in counties shall apply to the use of voting machines in said cities or towns or other political subdivisions of the state in so far as said laws and requirements are pertinent and necessary to legalize the use of voting machines in such cities or towns or other political subdivisions of the state.

Section 27. PENALTIES.—Any election officer, or other person, who shall violate any of the provisions of this Act, or who shall tamper with, or injure, or attempt to injure, any voting machine to be used or being used in an election, or who shall wilfully misuse any such machine, or who shall prevent or attempt to prevent the correct operation of such machine, or any unauthorized person who shall make or have in his possession a key to a voting machine to be used or being used in an election, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to undergo imprisonment for not more than one year, or to pay a fine not exceeding one thousand dollars (\$1,000), or both, in the discretion of the court.

Section 28. EFFECTIVE DATE.—This act shall become effective immediately upon its final enactment and approval, or upon its otherwise becoming a law.

Section 29. APPLICATION OF OTHER LAWS.—The provisions of all other laws relating to the conduct of elections shall, so far as practicable, apply to the conduct of elections where voting machines are used, unless herein otherwise provided.

Section 30. PARTIAL INVALIDITY: LEGISLATIVE INTENT.—Every section of this act and every part of each section is hereby declared to be independent sections and parts of sections, and the holding of any section or part thereof to be void, ineffective or unconstitutional for any cause, shall not affect the other sections or parts thereof.

Section 31. REPEALER.—All acts or parts of acts, in conflict with the provisions of this act, are hereby repealed, so far as the conduct of elections in political subdivisions adopting the use of voting machines is concerned.

Approved August 25, 1939.

No. 293)

(S. 176—Tucker)

AN ACT

To provide an appropriation for the construction and repair of buildings and for equipment of the Partlow State School for Mental Deficients and to provide when same shall be paid.

Be it Enacted by the Legislature of Alabama:

Section 1. That there is hereby appropriated out of the Treasury of the State of Alabama to the Partlow State School for Mental Deficients the sum of Forty Thousand and no/100 (\$40,000.00) Dollars, to be used for the erection, construction, and repairing of certain buildings and for equipment of certain buildings on the properties of the Partlow State School for Mental Deficients.

Section 2. That said appropriation shall be available immediately if, in the opinion of the Governor, the condition of the Treasury of the State of Alabama shall warrant, said appropriation to be paid when approved by the Governor.

Section 3. That all laws and parts of laws in conflict herewith are expressly repealed.

Section 4. That this Act shall become effective immediately upon its passage and approval by the Governor.

Approved August 29, 1939.

No. 295)

(H. J. R. 89—Rules Committee (House))

HOUSE JOINT RESOLUTION

BE IT RESOLVED BY THE HOUSE, The Senate concurring, that when the two houses adjourn today they adjourn to meet again on Friday, August 25, 1939.

BE IT FURTHER RESOLVED That the Legislature declare its policy of meeting two days each week during the three weeks beginning with Tuesday, August 29, 1939, and that when the Legislature adjourns on the 47th legislative day it recess to meet on Tuesday, June 25, 1940.

BE IT FURTHER RESOLVED That the members of the Legislature be allowed mileage for going to and returning from the adjourned session commencing Tuesday, June 25, 1940, and that the members of the Legislature be allowed per diem and expenses for attendance upon any meetings of either House sitting as a committee of the whole in the period between the adjournment on the 47th legislative day and the re-convening of the Legislature on the 48th legislative day. It is provided, however, that such committee of the whole shall not sit and receive pay for exceeding fifteen days. Provided that should the Senate be in committee of whole at any time during such recess the Lieut-Gov.

shall serve as the presiding officer of such committee and he shall receive the same per-diem and expense as he is now allowed.

Approved August 29, 1939.

No. 296)

(H. 787—Welch

AN ACT

To further provide for the revision, codification, digesting and promulgation of the public statutes of the State of Alabama.

WHEREAS, by Act No. 15, H. B. 100, approved February 7, 1939, provision was made for the employment of a Code Commissioner by the Governor, whose duty it is to revise, digest, codify, promulgate and publish all the statutes of the State of a general and public nature, including all acts passed prior to the beginning of the 1939 session of the Legislature; and

WHEREAS, pursuant to the authority of said act, The Harrison Company, a corporation, The Michie Company, a corporation, and West Publishing Company, a corporation, were jointly employed as a Code Commissioner to perform said duties, and a contract was entered into, jointly and severally, with said three named corporations to perform said duties and to revise, codify, digest, promulgate and publish the statutes of the State of a general and public nature, including all acts passed prior to the beginning of the 1939 session of the Legislature; and

WHEREAS, it has become necessary to change the said contract and to supplement the same to the end that a new contract may be entered into by and between the State, acting through the Governor, and the said three corporations, as Code Commissioner, in order to provide for the annotation of the said Code by the said Code Commissioner, and for other purposes; THEREFORE,

Be it Enacted by the Legislature of Alabama:

Section 1. That the Governor of the State of Alabama be, and he is hereby, authorized to contract jointly and severally with The Harrison Company, The Michie Company and West Publishing Company, which said corporations have been employed as Code Commissioner, to revise, digest, codify, promulgate and publish all the statutes of the State of a general and public nature, including all acts passed at the regular or any special session of the Legislature of 1939, the Constitution and such other material as ordinarily is incorporated into Codes, and to contract for the preparation and publication of a Code and of annotations to the several parts, titles, chapters, sections and subdivisions of sections thereof revising, digesting and codifying the said statutes.

Section 2. Such Commissioner shall prepare a systematic Code of the whole body of the public statutes of the State of a general and public nature, to be divided into separate volumes properly bound and the whole indexed. Manuscript thereof shall be prepared and submitted as herein provided, and may be either typewritten or printed or partially typewritten or partially printed.

Section 3. It shall be the duty of the Commissioner with reasonable dispatch to deliver to the Governor a transcript of the

Code, together with statements showing each and all changes which have been made, together with all additions thereto and omissions therefrom with accurate reference to the acts and laws so altered, changed or omitted.

Section 4. The Commissioner shall receive, for such services performed according to and under the supplemental contract entered into by them with the Governor as herein provided for, such sum or sums for the delivery of the manuscript and the publication thereof as may be determined by the Governor and stipulated in said contract to be paid when such portions of the work are delivered from time to time to the Governor; and for the delivery of the completed sets of said Code, as provided by said contracts, when the same are delivered as per said contracts.

Section 5. When the manuscript of the Code, including the indices and prefixes and suffixes have been prepared and are submitted to and have received the approval and adoption of the Legislature, the Governor is hereby authorized and empowered to purchase not exceeding five thousand complete sets thereof to be delivered to the State, and to procure an option at not to exceed a fixed price for sets that may thereafter be required according to such terms as the Governor may prescribe by contract with said Code Commissioner, for distribution among and use by the various officers, offices and departments of the State of Alabama and for such other purposes as the State may determine, including resale by the State.

Section 6. That there is hereby appropriated, out of the moneys in the State Treasury not otherwise appropriated, such amount as may be necessary to carry out the purposes of this Act.

Section 7. It is the intention and purpose of this act to supplement and to be cumulative of Act No. 15, H. B. 100, approved February 7, 1939, and the same is continued in full force and effect except to the extent that the provisions thereof are in conflict with the provisions of this Act. All other laws and parts of laws in conflict with the provisions of this act be, and the same are hereby, repealed.

Section 8. That this act shall take effect immediately upon its passage and approval by the Governor.

Approved August 30, 1939.

No. 297)

(H. 788—Welch

AN ACT

To provide for a joint committee of the House of Representatives and the Senate to read and revise the manuscript of the Code being prepared under contract with The Harrison Company, The Michie Company and the West Publishing Company, as Code Commissioner, and to prescribe

its duties and powers, and to fix the compensation of the committee and assistants and to provide for their compensation and expenses.

Be it Enacted by the Legislature of Alabama:

Section 1. That there is hereby created a joint committee to be composed of the five Senators who were selected by the Senate under the provisions of Act No. 130, H.B. 42, approved March 14, 1939, entitled "An Act to provide for the appointment of a joint committee to read and revise the manuscript of the new Code, etc.," the Lieutenant Governor, and the Speaker of the House and the nine members of the House of Representatives who were appointed by the Speaker of the House of Representatives under the provisions of said act referred to next hereinabove who are authorized and required to read, during the recess of the Legislature, the whole manuscript of the new Code as prepared by contract of the State with The Harrison Company, the Michie Company and the West Publishing Company, as joint Code Commissioner.

Section 2. The committee shall revise, amend and correct the manuscript submitted to it so as to make it a harmonious body of law as nearly perfect as possible and in so doing they shall keep correct minutes of their proceedings to be signed by the Chairman of the committee and returned with the manuscript so that their amendments and corrections may be correctly incorporated in the published Code.

Section 3. The committee shall have authority to employ two law clerks who must be competent and well qualified and who shall receive not exceeding \$10.00 per day each and also two stenographers who must be competent and well qualified and who shall receive not exceeding \$5.00 per day each. The members of the committee shall receive \$10.00 per day and the same mileage allowed to them as members of the Legislature. The compensation of members of the committee and the clerks and stenographers shall be for the whole time they are actually engaged in the work for which they were appointed. Provided, that the committee shall not be paid during any period of recess longer than three consecutive days. Provided further, that the Chairman or Vice Chairman of said committee may excuse or grant leave of absence to any member or members from service thereon for such periods of time as may be determined upon by the said committee and such member or members so excused or granted leave of absence shall not be compensated during such leave of absence. Upon the vouchers submitted for the compensation of the members of said committee, notation shall be made of the periods during which any committee member was absent under excuse or leave of absence as hereinabove provided.

Section 4. The Chairman of the committee shall certify to the Comptroller the amount due the members and assistants of the

committee and said Comptroller shall draw his warrant therefor on the State Treasury, payable out of the moneys heretofore appropriated for the expenses of the Legislature.

Section 5. The Governor shall designate some comfortable room in the Capitol, and have same suitably furnished and well lighted for the use of the committee, and the Secretary of State will furnish all necessary stationery, or things required by the committee.

Section 6. The joint committee shall codify and incorporate in the manuscript Code all general acts passed by the Legislature at this session.

Section 7. The Secretary of State shall have printed in pamphlet form one thousand (1000) copies of the report showing the changes and corrections made for the use of the Legislature.

Section 8. Vacancies occurring in the membership of such committee shall not be filled but the remaining members thereof shall proceed as if no vacancy had occurred.

Section 9. All laws and parts of laws in conflict with the provisions of this act be and the same are hereby repealed.

Section 10. That this act shall take effect immediately upon its passage and approval by the Governor.

Approved August 30, 1939.

No. 313)

(H. 684—Sightler

AN ACT

To provide for the employment of counsel for persons indicted for a crime, the maximum penalty for which under the law, is death, when such indicted person is without counsel and is unable to employ counsel; in cases arising in judicial circuits of this State, which circuits are composed of only one County, and have more than one but less than three judges, or which circuits may hereafter be composed of only one County and have more than one but less than three judges; to provide the amount to be paid said counsel; the method of making said payments to the appointed counsel out of the County Treasury, and to prescribe the method of procedure to be followed by the presiding judge in making the appointment of said counsel.

Be it Enacted by the Legislature of Alabama:

Words and Phrases Defined:

Section 1: Throughout this Act the following words and phrases shall be considered to have the following meanings, unless the context shall clearly indicate a different meaning in the connection used: (a) The word "attorney" or "counsel" shall include any person, group of persons, or firm, associated together for the practice of law; (b) The term "Presiding Judge," as used in this Act shall mean the Judge presiding at the arraignment of said indicted person.

Section 2: It shall be the duty of the Circuit Judge presiding at the arraignment of person indicted for a crime, the maximum penalty, for which under the law, is death, to appoint counsel for the defendant, if said defendant is without counsel and unable to employ an attorney for his defense.

Section 3: It shall be the duty of the Presiding Judge of said Circuit to have the Clerk of the Circuit Court keep a book in which is recorded the names of all attorneys engaged in the practice of law in the particular Circuit; said names appearing in the original list shall be arranged in alphabetical order; and numbered numerically beginning with one, provided, however, that no firm, group or association of lawyers shall appear on said list more than one time.

Section 4: It shall be the duty of the Presiding Judge of said Circuit to have prepared by the Circuit Clerk on approval of this Act by the Governor, an alphabetical list of all attorneys then admitted to practice in the Circuit, provided, however, that no law firm or association shall be entitled to more than one listing by reason of the firm or association being composed of more than one practicing attorney. The alphabetical list kept by the Circuit Clerk shall show the name of the attorney, the title of the case appointed in, the date of appointment, and the fee paid to said attorney. The names of all attorneys admitted to practice in the Circuit subsequent to the compilation of the original list shall request the Clerk to insert their name at the end of the original list.

Section 5: It shall be the duty of the Presiding Judge to appoint counsel for the defense of the person indicted for a crime, the maximum penalty for which under the law, is death, from the alphabetical list compiled by the Circuit Clerk; the first appointment to be given to the attorney whose name appears as number one on the alphabetical list; the second appointment to the attorney whose name appears as number two, and third to the attorney whose name appears as number three; said procedure shall continue until all attorneys whose names appear on said list shall have received one appointment, at which time the process shall again be repeated.

Section 6: It shall be within the discretion of the Presiding Judge to appoint more than one counsel for the defense, if such a step seems necessary that the ends of justice might be attained, provided, however, the procedure of appointment as outlined in Section five is followed, but in no event shall the fee for the defense of the accused be less than \$50.00 or more than \$100.00.

Section 7: In event any attorney shall refuse to serve when appointed by the Court, it shall be the duty of the Presiding Judge to appoint the attorney whose name appears next on said alphabetical list and to continue such procedure until counsel is appointed for defense of said accused person, provided, however, that

no attorney shall be permitted to name a substitute to serve in his place, nor in any other way vary the method of appointing counsel as set out in Section five of this Act.

Section 8: Any attorney may have his name stricken from said alphabetical list by requesting the Clerk of the Circuit Court to withdraw his name; provided, however, any attorney so withdrawing his name shall in no event be eligible for reappointment for a period of twelve months from date of his voluntary withdrawal. In event any attorney voluntarily withdrawing his name from said alphabetical list shall desire to be re-instated for appointment in cases coming within the purview of this Act he must follow the same procedure as set out in Section four hereof for attorneys admitted to practice subsequent to the compilation of the original alphabetical list. In event any attorney shall withdraw his name from said alphabetical list all names appearing subsequent to his listing shall advance one position.

Section 9: As compensation for said defense the attorney or attorneys so appointed shall be entitled in each case to a fee fixed by the Judge presiding at said trial, which fee shall be not less than \$50.00 nor more than \$100.00, to be paid out of the County Treasury. Said Presiding Judge in the case shall certify to the Board of Revenue or other governing body of the County that the attorney or attorneys appointed by the Court in the case of the State of Alabama vs———(name of defendant) has or have performed the services required of him or them in representing the said defendant and that the fee therefor has been fixed in the sum of———(Dollars) (designate amount of fee). Whereupon a warrant shall be drawn in favor of the attorney or attorneys upon the general funds of the County in payment therefor.

Section 10: In event any Section, clause, provision, or portion of this Act is for any reason held to be invalid or unconstitutional by any Court of competent jurisdiction, such holding shall not effect any other Section, clause, provision, or portion of this Act which is not of itself unconstitutional.

Section 11. This act shall take effect immediately after its passage and approval by the Government.

Approved September 1, 1939.

No. 323)

(H. 786—Megginson, Stone, Langan

AN ACT

To repeal an act entitled "An Act to provide for the employment discharge and compensation of road patrolmen in all counties of the State having a population of not less than 92,500 nor more than 150,000 according to the last or any subsequent Federal census and to define their duties."

Be it Enacted by the Legislature of Alabama:

Section 1. That the act entitled "An Act to provide for the employment discharge and compensation of road patrolmen in all counties of the State having a population of not less than 92,500 nor more than 150,000 according to the last or any subsequent Federal Census and to define their duties", approved Sept. 24, 1923 be and the same in hereby repealed.

Section 2. That all laws and parts of laws in conflict with the provisions of this act are hereby repealed.

Section 3. That this act shall be effective from and after its passage and approval by the Governor, or its otherwise becoming a law.

Approved September 1, 1939.

No. 325)

(H. 321—Gewin

AN ACT

To amend Section 161 of an Act entitled "An Act to provide for the general revenue of the State of Alabama," approved July 10, 1935.

Be it Enacted by the Legislature of Alabama:

Section 1. That Section 161 of an Act entitled "An Act to provide for the general revenue of the State of Alabama," approved July 10, 1935, be and the same is hereby amended to read as follows: Section 161. TAX COLLECTORS COMMISSIONS.—The tax collector shall, during the current term of the present incumbent of said office be paid commissions as now provided by law; after the expiration of the present term of the present incumbent of the office of tax collector and beginning on the first day of October, 1939, the tax collector shall be entitled to receive commissions on taxes collected by him, not including taxes on real estate bid in by the State at tax sales, and taxes which would be due on property except for the provisions of the presently applicable law exempting homesteads from State taxes, as follows: In counties where collections, not including taxes on real estate bid in by the State at tax sales, and taxes which would be due on property except for the provisions of the presently applicable law exempting homesteads from State taxes, do not exceed twelve thousand dollars, the rate of commission shall be ten per cent on the first five thousand dollars, five per cent on the next four thousand dollars, and four per cent on the remainder. The Commission herein provided for is to be calculated on all collections for the general fund of the State and County. In counties where the collections, not including taxes on real estate bid in by the State at tax sales, and taxes which would be due on property except for the provisions of the presently appli-

cable law exempting homesteads from State taxes, exceed twelve thousand dollars, the commissions shall be as above declared up to twelve thousand dollars, and one and one-half per cent on the remainder up to fifteen thousand dollars, and one per cent on the remainder above fifteen thousand dollars. The amount of the commissions on taxes which would be due on property except for the provisions of the presently applicable law exempting homesteads from State taxes shall inure to the benefit of the general fund of the State only, and shall be covered into the State Treasury to the credit of said fund. He shall also be entitled to receive two per cent on all collections made by him of special taxes, whether such special taxes be levied for the State or County, to be paid out of such special taxes. The tax collector shall receive two per cent commissions on all Special County or district taxes levied for school purposes. The collector may retain his commissions upon collections when he makes payment into the State Treasury.

Section 2. In all Counties where County officials are paid on a salary instead of a fee basis, all fees allowed under the terms of this Act to be paid to or collected by County officials shall, by said officials be paid into the County treasury, or to such officials performing the duties of County treasurer.

Section 3. All laws and parts of laws in conflict herewith are hereby specially repealed.

Section 4. This Act shall take effect upon its approval by the Governor.

Approved August 31, 1939.

No. 326)

(H. 322—Gewin

AN ACT

To amend Section 22 of an Act entitled "An Act to provide for the General Revenue of the State of Alabama," approved July 10, 1935.

Be it Enacted by the Legislature of Alabama:

Section 1. That Section 22 of an act entitled "An Act to provide for the General Revenue of the State of Alabama," approved July 10, 1935, be and the same is hereby amended to read as follows: Section 22. TAX ASSESSORS COMMISSIONS.—The tax assessor shall, during the current term of the present incumbent of said office, be paid the commission which is now provided by law; after the expiration of the present term of the present incumbent of the office of tax assessor and beginning on the first day of October, 1939, the tax assessor shall be entitled to receive from the tax collector, out of the first money collected by him, giving duplicate receipts therefor, one of which receipts shall be forwarded to the State Comptroller by the tax collector, the fol-

lowing commissions, to-wit:—In counties where the collections, not including taxes on real estate bid in by the State at tax sales, and taxes which would be due on property except for the provisions of the presently applicable law exempting homesteads from State taxes, do not exceed twelve thousand dollars, the rate shall be ten per cent on the first five thousand dollars, five per cent on the next four thousand dollars, and four per cent on the remainder. The commission herein provided for is to be calculated on all collections for the general fund of the State and County. In counties where collections, not including taxes on property bid in by the State at tax sales, and taxes which would be due on property except for the provisions of the presently applicable law exempting homesteads from State taxes, exceed twelve thousand dollars, the commission shall be as above declared up to twelve thousand dollars, and one and one-half per cent on the remainder up to fifteen thousand dollars, and one per cent on the remainder above fifteen thousand dollars. The amount of the commissions on taxes which would be due on property except for the provisions of the presently applicable law exempting homesteads from State taxes shall inure to the benefit of the general fund of the State only, and shall be covered into the State Treasury to the credit of said fund. He shall also be entitled to receive two per cent on all collections made by the tax collector of special taxes, whether such special taxes be levied for the State or County, to be paid out of such special taxes. The tax assessor shall receive two per cent commissions on all special County or district taxes levied for school purposes; but he shall not receive such commissions on such special school taxes unless he has properly apportioned such special taxes.

Section 2. In all Counties where County officials are paid on a salary instead of a fee basis, all fees allowed under the terms of this Act to be paid to or collected by County officials, shall, by said officials be paid into the County treasury, or to such officials performing the duties of County Treasurer.

Section 3. All laws and parts of laws in conflict herewith are hereby specially repealed.

Section 4. This act shall take effect upon its approval by the Governor.

Approved August 31, 1939.

No. 329)

(H. 147—Robinson of St. Clair

AN ACT

To further regulate the office of Circuit Solicitor in the several judicial circuits of the State of Alabama including Deputy Circuit Solicitors who are elected by the people, and Assistant Deputy Circuit Solicitors, and Deputy Circuit Solicitors who are not elected by the people, a part of whose salaries is paid by the State of Alabama: to provide and impose additional duties

for such solicitors, deputy solicitors, and assistant deputy solicitors, and to provide for the compensation of such solicitors, deputy solicitors, and assistant deputy solicitors for such additional duties; to provide that such solicitors, deputy solicitors, and assistant deputy solicitors shall serve in any part of the State of Alabama when called upon by the Attorney General or the Governor to do so; and to provide for the payment of the necessary expenses of such solicitors, deputy solicitors, and assistant deputy solicitors when serving outside of their circuit; to prohibit all such solicitors, deputy solicitors, and assistant deputy solicitors from the practice of law, directly, or indirectly, in any of the courts of the State of Alabama, or of the United States, or in any other manner or form whatsoever, except in the performance of their official duties as such solicitor, deputy solicitor, and assistant deputy solicitor; to provide for furnishing by the State the necessary stationery, telephones, stamps, supplies, and equipment to each of the several solicitors, deputy solicitors, and assistant deputy solicitors, to require the county governing body of each county in which any such solicitor, deputy solicitor, or assistant deputy solicitor is a resident to provide adequate office space or rooms for use as offices by such officers; to fix the salaries of such solicitors, deputy solicitors, and assistant deputy solicitors, and to make provision for the payment of such salaries as well as the expenses authorized hereunder, and to provide the effective dates of this Act, and to repeal all laws, general, local, and special, and parts of such laws in conflict herewith.

Be it Enacted by the Legislature of Alabama:

Section 1. That in addition to the duties of circuit solicitors, and deputy circuit solicitors who are elected by the people, a portion of whose salaries is paid by the State of Alabama, and Deputy circuit solicitors, and assistant deputy circuit solicitors who now receive a portion of their salaries from the State of Alabama, and who are not elected by the people, now prescribed by law to be performed by them, they shall perform the following new and additional duties, and be subject to the following limitations and prohibitions in this Act set out; (a) They shall whenever requested to do so by the Governor of Alabama, by the Pardon Board as now provided by law, and by any other Pardon Board, Parole Board, or any other body or agency that may be created by law to pass upon pardons and paroles, make a full and thorough investigation in each case arising in their circuit, county, or division of a county and report their findings fully with recommendations that pardon or parole be granted or refused, and shall assign fully and in detail their reasons for such recommendations. They shall advise any parole officer who may have jurisdiction in their respective circuits, county, or division of a county, and shall when called upon by such parole officer, make a full, thorough, and impartial investigation of each case being investigated, and give to him all information possible with reference to such case, and shall advise him upon his request with reference to the law and procedure on all matters pertaining to the office of said parole officer; they shall whenever called upon by the Governor, the Board of Pardons, or Board of Paroles or Pardons, or any other board, or any other agency or department which may be set up by law to handle paroles

and pardons in the State of Alabama, go to Montgomery, or to any other place where a case with which they are familiar is being investigated and appear personally before the Governor, or before such Board or agency; they shall cooperate fully with the Governor and with the Board of Pardons and Paroles and with any other board or agency that may be created to handle pardons and paroles in the State of Alabama, with reference to any cases which have arisen in their respective circuits, counties, or divisions of a county, and shall render all assistance possible in furnishing information needed by the Governor, the Board of Pardons, or any other Board or agency which may be created to handle pardons and paroles, furnishing any information and making any investigation which may be needed in the proper handling of such pardon or parole, and the investigation thereof. (b) They shall carefully read and check the Bill of Exceptions in all criminal cases, appealed to the Supreme Court, or Court of Appeals in their respective circuits, counties, or divisions of a county, and shall call to the attention of the circuit judge, or other judge to whom the Bill of Exceptions is presented, any inaccuracies, or mistakes, or misstatements, which in their opinion may appear in such Bill of Exceptions, and shall render such services as may be necessary to see that such Bill of Exceptions is correct before being signed by such judge. (c) They shall go to any place in the State of Alabama, and prosecute any case or cases, or work with any Grand Jury when called upon to do so by the Attorney General, or the Governor of the State of Alabama, and shall attend sessions of courts and transact all of the duties of the solicitor in such courts wherever called upon by the Attorney General or the Governor to do so. (d) They shall devote their entire time to the discharge of the duties of their respective offices, it being understood by the Legislature that such officers have heretofore devoted only part time to the discharge of the duties of their respective offices, and each and every one of such officers are prohibited from practicing law, directly or indirectly, in any court of this state, or of the United States, or in any other manner or form whatsoever, except in the discharge of the official duties of their office.

Section 2. For the extra, new, and additional duties and limitations imposed on the said circuit solicitors, deputy circuit solicitors, and assistant deputy circuit solicitors, as herein provided, they shall receive the following additional compensation from the State to be paid monthly out of the State Treasury as the salaries of other state officers are paid: (a) All circuit solicitors in the state shall receive the sum of \$600.00 per annum; (b) All deputy circuit solicitors who are elected by the people, a portion of whose salaries is paid by the State of Alabama, shall receive the sum of \$600.00 per annum; (c) All deputy circuit solicitors and assistant deputy circuit solicitors who are not elected by the people, a portion of whose

salaries is paid by the State of Alabama, shall receive the sum of \$300.00 per annum.

Section 2 A. Commencing with the next term of the several offices, the several circuit solicitors, and the several deputy circuit solicitors, and the several assistant deputy circuit solicitors affected by this Act shall receive from the State of Alabama the following salaries to be paid monthly out of the State Treasury as the salaries of other State officers are paid: (1) All circuit solicitors in the State shall receive from the State a salary of \$4800.00 per annum; (2) All deputy circuit solicitors who are elected by the people, a portion of whose salaries is now paid by the State of Alabama, shall receive from the state a salary of \$4800.00 per annum; (3) All deputy circuit solicitors, a portion of whose salaries is now paid by the State of Alabama, and who are not elected by the people, shall receive from the state, a salary of \$4200.00 per annum; (4) All assistant deputy circuit solicitors who are not elected by the people, a portion of whose salaries is paid by the State of Alabama, shall receive from the State a salary of \$2400.00 per annum.

Section 3. When any circuit solicitor, or deputy circuit solicitor, or assistant deputy circuit solicitor, is ordered to prosecute any case or cases, or work with any Grand Jury, or discharge any other duty outside of the circuit for which he has been elected or appointed, he shall be entitled to his actual expenses for transportation, and not to exceed \$5.00 per day for hotel and meals to be rendered in an itemized account within ten days after his return home, sworn to and returned to the Attorney General, and when approved by him, the Comptroller shall draw a warrant in favor of such circuit solicitor or deputy circuit solicitor, or assistant deputy circuit solicitor for such amount as thus approved. The several counties of the state are hereby authorized, directed, and required to provide suitable offices for the use and occupancy by such solicitors, deputy solicitors, and assistant deputy circuit solicitors in the counties where such officers reside, and the state shall furnish such offices and officers with telephone service, stationery, stamps, and other necessary equipment for the use of such officers and offices.

Section 4. This Act shall take effect immediately upon its approval by the Governor or upon its becoming a law without his approval; Provided, however, that subsection "d" of Section 1, and Section 2 A of this Act shall not become so effective as to exclude such officers from the practice of law, or to fix the salaries as therein stated until the end of the term of the present incumbents.

Section 5. That all laws and parts of laws, general, local, and special, in conflict with the provisions of this Act, are hereby repealed; Provided, however, that nothing herein shall be so construed as repealing the whole of any law under which any county is supplementing the salaries or compensation of any one or more of such officers, such statutes being hereby modified only to the

extent of limiting the salaries of circuit solicitors in such counties to a maximum of \$6,000.00 per annum; and, of limiting the salaries of such deputy circuit solicitors elected by the people to a maximum of \$5400.00 per annum; and, of limiting the salaries of such deputy circuit solicitors not elected by the people to a maximum of \$4500.00 per annum; and, of limiting the salaries of such assistant deputy circuit solicitors to a maximum of \$3900.00 per annum; it being the purpose of the Legislature to limit all of such officers to the maximum in this section indicated, and to repeal all laws, general, local, or special in conflict herewith; provided, further, that the laws now existing with respect to expense allowances for such officers when out of the county of their residence in the discharge of their official duties shall not be effected by this Act.

Approved August 31, 1939.

No. 330)

(H. 223—Beck-Harrison

AN ACT

To amend Section I as amended by an act approved March 3, 1939, and Sections II, III and V of an act entitled "An Act to provide for State planning of all public works and uses of land which are to be constructed or acquired with State funds, or located, constructed, or authorized by the State; all local improvements which, under the statutes, are required to be submitted to State authorities; also all projects of state magnitude, even though the construction and financing are to be done by local authorities exclusively; to provide for a State Planning Commission and to prescribe its composition, duties, powers and responsibilities; to authorize the legislature to provide the necessary appropriations to meet the expenses of carrying on the work of the commission under the provision of this Act," approved September 9, 1935.

Be it Enacted by the Legislature of Alabama:

Section 1. That Section I of an act entitled "An Act to provide for State planning of all public works and uses of land which are to be constructed or acquired with State funds, or located, constructed, or authorized by the State; all local improvements which, under the statutes, are required to be submitted to State authorities; also all projects of state magnitude, even though the construction and financing are to be done by local authorities exclusively; to provide for a State Planning Commission and to prescribe its composition, duties, powers and responsibilities; to authorize the legislature to provide the necessary appropriations to meet the expenses of carrying on the work of the commission under the provision of this Act," approved September 9, 1935, as amended by an act approved March 3, 1939, be and the same is hereby amended to read as follows:

Section I. That there is hereby created and established a State Planning Commission to consist of the Governor, the State

Superintendent of Education, the Director of Conservation, the Director of Finance, the State Geologist, a member of the Staff of the Agricultural Extension Service of the Alabama Polytechnic Institute, to be designated by the Governor, a member of the Staff of the State Highway Department, to be designated by the Governor, and four appointive members, all bona-fide residents and qualified voters of the State, who shall be appointed by the Governor and confirmed by the Senate. Of the appointive members, two shall be designated to serve for terms of four years, beginning February 1, 1939, and two shall be designated to serve for terms of eight years, beginning February 1, 1939. Their successors shall serve for terms of eight years and until their successors are appointed and qualified. Provided, however, that no two of the four appointive members of the commission shall be residents of the same congressional district. Members of the Commission shall serve as such without compensation, but each shall be paid the actual expenses incurred in the performance of his duties as a member of the Commission, when approved by the Chairman. The Commission shall be known as the "State Planning Commission" of Alabama, and the members shall be State officers. Before entering upon the discharge of their duties, they shall take the oath of office prescribed for other state officers. The Commission shall have an appropriate seal with such words and emblem as the Commission may prescribe. Vacancies in the appointive membership of the Commission shall be filled by appointment of the Governor for the unexpired term. Five members of the Commission shall constitute a quorum for the transaction of business. Notice of all meetings of the Commission shall be given by the Secretary in such manner and under such rules and regulations as may be prescribed by the Commission.

Section 2. That Section II of an act entitled "An Act to provide for State planning of all public works and uses of land which are to be constructed or acquired with State funds, or located, constructed, or authorized by the State; all local improvements which, under the statutes, are required to be submitted to State authorities; also all projects of state magnitude, even though the construction and financing are to be done by local authorities exclusively; to provide for a State Planning Commission and to prescribe its composition, duties, powers and responsibilities; to authorize the legislature to provide the necessary appropriations to meet the expenses of carrying on the work of the commission under the provision of this Act," approved September 9, 1935, be and the same is hereby amended to read as follows: Section II. That the Commission at its first meeting after appointment shall elect from among its members a Chairman and a Vice-Chairman who shall serve for four years and until their successors are elected. The Commission shall appoint a Director who shall be a citizen of Alabama and who

shall be qualified by training and experience for the duties required of him. His term of office shall be fixed by the Commission and his salary shall be fixed by the Commission not to exceed the sum of \$5,000.00 per year. Upon nomination of the Director, the Commission may appoint such other employees as it may deem necessary for its work, fix their rates of pay and promote, demote and remove them at will. The Commission may also contract with planners and other consultants for such services as it may require. Anything in this section to the contrary notwithstanding, all officers and employees of the State Planning Commission who would otherwise be subject to the provisions thereof, shall be subject to the provisions of the Merit System Act approved March 2, 1939. The Director shall serve as secretary of the Commission and shall be custodian of the books, records and papers of the Commission, which he shall keep at the office of the Commission, and shall perform any and all functions and duties, and exercise any and all power and authority of the State Planning Commission, and shall have charge of all active functions and duties of the State Planning Commission, and the enforcement of the orders, rules and regulations of the State Planning Commission promulgated with respect thereto, subject, however, to the jurisdiction and direction of the State Planning Commission. Upon request of the Commission, the Governor may, from time to time, for the purpose of special surveys under the direction of the Commission, assign or detail to the Commission members of the staffs or personnel of any State Administrative Department, bureau, institution or agency or may direct any such department, bureau, institution or agency to make for the Commission special surveys or studies requested by the Commission. The Commission shall be provided with necessary office space and necessary equipment in the State Capitol or such other places as the needs of the Commission may require.

Section 3. That Section III of an act entitled "An Act to provide for State planning of all public works and uses of land which are to be constructed or acquired with State funds, or located, constructed, or authorized by the State; all local improvements which, under the statutes, are required to be submitted to State authorities; also all projects of state magnitude, even though the construction and financing are to be done by local authorities exclusively; to provide for a State Planning Commission and to prescribe its composition, duties, powers and responsibilities; to authorize the legislature to provide the necessary appropriations to meet the expenses of carrying on the work of the Commission under the provision of this Act," Approved September 9, 1935, be and the same is hereby amended to read as follows: Section III. That the Legislature shall make the necessary appropriations to meet the expenses of carrying on the work of the Commission under the provisions of this Act. The expenditures of the Commission, exclusive of gifts,

shall be within the amounts appropriated for the purpose by the Legislature. All appropriations heretofore or hereafter made for the salaries and other expenses of the State Planning Commission shall be expended only upon the approval of the Governor. Provided, however, that the appropriation or appropriations out of the general fund for the administration of this act shall not be paid, or released, or made available, to the State Planning Commission until all other appropriations made by law out of the general fund shall have been met. The Commission may adopt rules and regulations for the transactions of its business and shall keep a record of its resolutions, transactions, findings and determinations.

Section 4. That Section V of an act entitled "An Act to provide for State planning of all public works and uses of land which are to be constructed or acquired with State funds, or located, constructed, or authorized by the State; all local improvements which, under the statutes, are required to be submitted to State authorities; also all projects of state magnitude, even though the construction and financing are to be done by local authorities exclusively; to provide for a State Planning Commission and to prescribe its composition, duties, powers and responsibilities; to authorize the legislature to provide the necessary appropriations to meet the expenses of carrying on the work of the Commission under the provision of this Act," approved September 9, 1935, be and the same is hereby amended to read as follows: Section V. (a) That the Commission shall have power to promote public interest in and understanding of the State Plan and the problems of the State planning and to that end may publish and distribute copies of the plan or any report and may employ such other means of publicity and education as it may determine. It may confer and cooperate with the executive, legislative or planning authorities of neighboring states and of the counties and municipalities of such states, for the purpose of bringing about a coordination between the development of such neighboring States, counties or municipalities and the development of the State of Alabama. The Commission shall advise and cooperate with municipal, county, regional and other local planning Commissions within the State for the purpose of promoting coordination between the State and local plans and development. The Commission shall, upon the request of any appropriate municipal, county or other local board or official, transmit information possessed by it which bears upon such coordination. The Commission may upon the request of the Board of County Commissioners of any county, the council of any municipality or the chief legislative body of any other political subdivision, make a study of and report upon any planning problem of such county, municipality or subdivision submitted to it, and the Commission may agree with any such Board, Council or body as to the amount, if any, to be paid to the Commission for any such service. The Commission may, upon

request or at its own initiative, furnish advice or reports to any State officer or department on any problem falling within the field of state planning, and may advise the Governor and/or the Legislature on programs for public improvement and the financing thereof. The Commission may prepare and submit to the Governor and/or the Legislature drafts of legislation for the carrying out of the master plan or of any part thereof, including zoning or land-use regulations, the making of official maps and the preservation of the integrity thereof, and regulations for the conservation of the natural resources of the State. All public officials shall, upon request, furnish to the Commission, within a reasonable time, such available information as it may require for its work. The Commission, its members, officers, and employees, in the performance of their functions may enter upon any land and make examinations and surveys and place and maintain necessary monuments and marks thereon. In general, the Commission shall have such powers as may be appropriate to enable it to fulfill its functions and duties, to promote State planning and to carry out the purposes of this Act. The Commission shall cooperate with other planning Commissions and authorities, including national and interstate planning boards, including the Tennessee Valley Authority and before making its report shall consult such national or interstate agency.

(b) That the Commission may establish and operate an advertising, travel, information, tourist and industrial development division. (c) It shall be the further duty of the Commission to: 1. Collect, compile and distribute literature as to the facilities, advantages and attractions of the State, the historic, recreational and scenic points and places of interest within the State and the transportation and highway facilities of the State; (2) Plan and conduct a program of information and publicity designed to attract new industries, tourists, visitors and other interested persons from outside the state to the state and also encourage and coordinate the effects of other public and private organizations or groups of citizens to publicize the facilities and attractions of the state for the same purpose; 3. Publicize the material and economic advantages of the state which render it a desirable place for business and residence; 4. Carry on such educational program as is necessary to familiarize the people of the state with the scenic, recreational, historic, industrial and agricultural advantages or needs of the state.

(d) The Commission is further authorized and empowered, within the limits of available funds, to: 1. Form contracts with agencies of any type or wherever situated that will tend to promote the objectives of advertising Alabama to non-residents. 2. To gather and compile information from branches of the State Government and others, that will promote authentic information for advertising purposes. 3. To enter into cooperative agreements and contracts with such individuals, partnerships, corporations, public or private, asso-

ciations, societies, educational institutions, chambers of commerce, automobile associations and other organized groups as may be deemed advantageous and proper to effectuate the intent and purpose of this Act, provided, however, that an authenticated copy of all such contracts shall be filed with the Department of Finance and shall be approved by the Attorney General. 4 (a) To accept unconditional gifts of money to be expended in the furtherance of the purpose of this Act. (b) Within the limits of available funds, to match any moneys advanced for the purpose of this Act by the Federal Government or by any State, County, Municipality, Corporation, Association, Society or Individual. (c) Within the limits of available funds, to enter into such cooperative agreements or contracts with any instrumentality of the Federal Government, Municipality or County Government of Alabama or any other State or group of States which in the judgment of the State Planning Commission will effectuate the purpose of this Act.

Section 5. That this Act shall take effect upon its passage and approval by the Governor or its otherwise becoming a law.

Approved September 5, 1939.

No. 340)

(S. 422—Stakely

AN ACT

To repeal an Act entitled "An Act to authorize and require the Board of Education in any county in the State of not less than 75,000 nor more than 100,000 population according to the last or any succeeding Federal census to provide a pension or retiring allowance for teachers who have served in the public schools of such county." Approved April 15, 1936.

Be it Enacted by the Legislature of Alabama:

Section 1. An Act entitled "An Act to authorize and require the Board of Education in any county in the State of not less than 75,000 nor more than 100,000 population according to the last or any succeeding Federal census to provide a pension or retiring allowance for teachers who have served in the public schools of such county." Approved April 15, 1936, be and the same is hereby repealed.

Approved September 5, 1939.

No. 341)

(S. 217—Harris, St. John

AN ACT

To provide supernumerary judges for courts of record, to prescribe their tenure, duties, powers, fix their compensation, and the method of payment.

Be it Enacted by the Legislature of Alabama:

Section 1. The Chief Justice, and Associate Justices of the Supreme Court who have served continuously for fifteen years in a judicial office and have reached or passed the age of seventy years, may elect to become supernumerary judges of the State by filing a written declaration while in service to that effect with the Governor, who shall endorse his approval thereon if he finds the length of service is sufficient to justify such election.

Section II. Such Justices on such approval, and taking the oath of office prescribed by the Constitution, shall become supernumerary judges of the State, and on request of the Chief Justice or the Governor may serve on the Supreme Court or on any of the Circuit Courts, in case of a vacancy or necessity therefor. Such supernumerary judges shall be vested with and may exercise all the duties and functions of a judge of such courts, and shall have and exercise all the authority and power of such judicial officer, may administer oaths, take and certify acknowledgments, and may hear applications for injunctions, and grant injunctions, and other remedial and extraordinary writs, such as mandamus, prohibition, quo warranto and certiorari returnable to courts of competent jurisdiction.

Section III. Their term of service shall be twelve years, but they may be removed by impeachment for the causes specified in section 173 of the Constitution. They shall receive a salary of Four Thousand Dollars per year, payable out of the Treasury as other judicial salaries are paid, for which such payment an appropriation is hereby made. Upon the approval of such election by the Governor the office then held by such Justice shall become vacant and such vacancy shall be filled as now provided by law in case of a vacancy in such office.

Approved September 6, 1939.

No. 344)

(H. 376—Davis of Montgomery

AN ACT

To Amend Section 10450 Of The Code of Alabama of 1923.

Be it Enacted by the Legislature of Alabama:

Section 1. That Section 10450 of the Code of Alabama of 1923 be and the same is hereby amended so as to read as follows: Section 10450. CAUSES OF REMOVAL OF TRUSTEE ON PETITION TO THE CIRCUIT COURT IN EQUITY.—Upon the petition or bill of any person interested in the execution of a trust, the circuit court in equity may remove any trustee who has violated or threatened to violate his trust; who is insolvent, or whose insolvency there is good reason to apprehend; who has removed from

the state; or who, for any other cause, is an unsuitable person to execute the trust; or the court may require such bonds as will effectually protect the interest of the parties; (provided that upon the petition or bill of any person interested in the execution of a trust, the circuit court in equity may remove any trustee who has any pecuniary interest which may be adverse to the interests of the trust.)

APPROVED September 11, 1939.

No. 345)

(H. 377—Davis of Montgomery

AN ACT

To Amend Section 10451 Of The Code of Alabama Of 1923.

Be it Enacted by the Legislature of Alabama:

Section 1. That Section 10451 of the Code of Alabama of 1923 be and the same is hereby amended so as to read as follows: Section 10451. NEW TRUSTEE APPOINTED BY THE COURT IN SUCH CASE.—In all such cases where a successor trustee has not been named in the trust instrument, such court shall appoint a new trustee in the place of a trustee removed, or may cause the trust to be executed by one of its own officers.

Approved September 11, 1939.

No. 346)

(H. 641—Brown of Covington

AN ACT

To provide for the calculation of indices of financial ability of each county, including the cities therein, to support the Minimum School Program, and to provide for the use of said indices in apportioning the Minimum Program Fund.

Be it Enacted by the Legislature of Alabama:

Section 1. That the State Board of Education shall calculate an economic index of the financial ability of each county, including the cities therein, to support the Minimum School Program, said index to be determined as follows: (a) Calculate for each county its per cent of the state total for each of the following items: sales tax paid, passenger automobile license paid, state personal income tax paid, assessed valuation of public utilities, farm income, and value added by manufacture; (b) Find the sum total of the following: per cent sales tax paid multiplied by six, per cent passenger automobile license paid multiplied by five, per cent assessed valuation of public utilities multiplied by three, per cent state personal income tax paid multiplied by one, per cent farm income multiplied by one,

and per cent value added by manufacture multiplied by one, and divide the aforesaid sum total by seventeen and the quotient shall be the economic index for each county.

Section 2. That the State Board of Education shall calculate for each county, including the cities therein, its per cent of the total assessed valuation of the State and said per cent shall be the assessed valuation index of the county.

Section 3. That the State Board of Education shall calculate an average index of the financial ability of each county, including the cities therein, to support the minimum school program, said average index to be expressed in per cent of the state total and to be calculated as follows: (a) Add the economic index for each county as provided in Section 1 of this Act to its assessed valuation index as provided in Section 2 of this Act and divide the sum by the number two and the quotient shall be the average index of the financial ability of the county, including the cities therein, to support the minimum school program, provided, however, that the State Board of Education shall recalculate said index on the basis of the most recent available data once every two years.

Section 4. That the State Board of Education shall determine the total local funds available to provide the Minimum School Program for the entire State as follows: Multiply one-half of one per cent by the total assessed valuation of the State on which taxes were due and collectable for the fiscal year beginning October 1, 1938, and the product shall be counted as the total local funds available for the support of the State Minimum School Program.

Section 5. That the State Board of Education shall determine the total local funds available to each county, including the cities therein, to provide the Minimum School Program by multiplying its Average Index of financial ability as provided in Section 3 of this Act by the total local funds available to provide the State Minimum School Program as provided in Section 4 of this Act and the product shall be counted as the local funds available to said county, including the cities therein, to provide the Minimum School Program.

Section 6. That the State Board of Education shall determine the amount needed by each county, including the cities therein, from the Minimum Program Fund as follows: To the sum total of all funds from state appropriations and apportionments available for elementary and secondary schools in any and all school systems in the county, except apportionments from the Special Educational Trust Fund, add the Local funds available to provide the minimum school program as determined in Section 5 of this Act and the grand total shall be deducted from the total cost of the Minimum Program for all school systems in said county as determined by An Act "to authorize and provide for the establishment of a fund to be known as the Minimum Program Fund and

to define procedures to be used in apportioning the Minimum Program Fund for the elementary and high schools in the various counties and cities of the State", approved September 2, 1935, or as the same shall be amended and the difference shall be paid from the Minimum Program Fund.

Section 7. That the provisions of this Act shall become effective October 1, 1939.

Section 8. That all laws and parts of laws inconsistent with the provisions of this Act are hereby repealed.

Section 9. If any part of this Act shall be unconstitutional, the rest shall stand.

Approved September 11, 1939.

No. 352)

(H. 807—Langan

AN ACT

To amend Section 15 of an Act entitled an Act, "To provide and create a commission form of government and to authorize the adoption of the same in all cities and towns in the State of Alabama, which now are not, or hereafter may not be within the influence or operation of any other valid legislative enactment authorizing or adopting such form of government; to regulate the selection and election of commissioners and their terms of office and retention in and recall from office; to provide for the selection of one commissioner as mayor, and the retention in office of certain officials; to fix the powers, duties and compensation of such commissioners; to punish improper conduct in connection with elections and petitions hereunder; to abolish boards of public works, police commissioners, councilmen, aldermen and certain other city and town officials of such municipalities as adopt the said form of government; and generally to authorize and provide for the creation and maintenance of said commission form of government," approved April 8, 1911.

Be it Enacted by the Legislature of Alabama:

Section 1. That Section 15 of an Act entitled an Act, "To provide and create a commission form of government and to authorize the adoption of the same in all cities and towns in the State of Alabama, which now are not, or hereafter may not be within the influence or operation of any other valid legislative enactment authorizing or adopting such form of government; to regulate the selection and election of commissioners and their terms of office and retention in and recall from office; to provide for the selection of one commissioner as mayor and the retention in office of certain officials; to fix the powers, duties and compensation of such commissioners; to punish improper conduct in connection with elections and petitions hereunder; to abolish boards of public works, police commissioners, councilmen, aldermen, and certain other city and town officials of such municipalities as adopt the said form of government; and generally to authorize and provide for the creation

and maintenance of said commission form of government, approved April 8, 1911, be amended so as to read as follows: Section 15.— That whenever any vacancy shall occur in the office of commissioner of any city organized under the terms of this act by death, or resignation or removal and the unexpired term of office of said commissioner is for less than six months, then his successor for the unexpired term shall be elected by the two remaining members of the board of commissioners of such city, which successor shall serve for the duration of the unexpired term and shall be paid the same compensation as was paid to the commissioner he succeeded. If a vacancy occurs and the unexpired term is for a longer period than six months then the mayor shall call a special election for the selection of a commissioner to serve the unexpired term. Notice of said election shall be given by publication at least thirty days prior to the date set by the mayor for the holding of the special election. All laws pertaining to general elections under this act and the qualification of candidates shall apply with the same force and effect in special elections. Every person who shall be elected to the office of commissioner in any such city under the provisions of this section or the preceding section, shall qualify for office as soon as practicable after such election, and shall be clothed with the duties and responsibilities and powers of such office immediately upon such qualifications.

Section 2. That all laws or parts of laws in conflict herewith are hereby expressly repealed.

Section 3. That this Act shall take effect upon its approval by the Governor, or its otherwise becoming a law.

Approved September 11, 1939.

No. 358)

(H. 870—Smyer

AN ACT

To permit delicatessen stores in all cities having a population of two hundred thousand or more, according to the last, or any subsequent Federal census, to remain open on Sunday; To define delicatessen stores, and to provide for the regulation thereof.

Be it Enacted by the Legislature of Alabama:

Section 1. It shall be lawful for delicatessen stores in cities having a population of two hundred thousand or more according to the last, or any subsequent Federal census, and within the police jurisdiction thereof, to remain open on Sunday for the purpose of selling delicatessen products.

Section 2. "Delicatessen Store" as herein referred to shall be defined to mean a store in which delicatessen products, as herein-after defined, shall constitute not less than sixty-five per cent of the

entire stock of said store, as well on week days as on Sunday, and in which the average sales of delicatessen products, as hereinafter defined, shall not be less than sixty-five per cent of the entire sales in said store as well on week days as on Sunday.

Section 3. "Delicatessen Products" as herein used, shall mean and include only the following products:—Bread, cakes, rolls, pastries, puddings, cookies, crackers, candy, chewing gum, nuts, pies, crystalized fruits, bottled milk, and cream, butter, yard eggs, and cooked eggs, oleomargarine, cheese, ice cream, sherbets, non alcoholic cold and hot drinks, cooked and prepared foods, sold in bulk (not in cans or containers) ready for human consumption, and cooked or prepared foods served on the premises, cooked or ready prepared vegetables, salads, meats, fish, pickles, olives, condiments and sauces, fresh fruits and vegetables served and consumed on the premises; provided, however, that it shall be unlawful to sell or offer for sale on Sunday in a delicatessen store, as herein defined, any goods, wares, or merchandise other than delicatessen products as herein above defined.

Section 4. All laws, or parts of laws in conflict with the provisions of this Act are hereby repealed.

Section 5. This act shall take effect immediately upon its approval by the Governor.

Approved September 11, 1939.

No. 364)

(H. J. R. 112—Beck

HOUSE JOINT RESOLUTION

BE IT RESOLVED by the House of Representatives, the Senate concurring, that House Bill No. 223 be officially designated as the Beck-Harrison Bill.

Approved September 11, 1939.

No. 365)

(H. 613—Delony

AN ACT

To Provide for and to submit to the qualified electors of the State of Alabama, at an election to be held at the next general election held after the expiration of three months from the date of the final adjournment of the present session of the Legislature at which this amendment is proposed, an Amendment to the Constitution of Alabama authorizing the Court of County Commissioners of Colbert County, Alabama, to divide said County into drainage districts for the control of malaria and to authorize and empower said County to levy and collect in the several drainage districts which may be formed a special three mill tax, for use in malaria control work, in addition to all taxes now authorized, provided such tax is authorized by a majority of the qualified electors residing in

such drainage district voting upon such proposition at an election called and held for the purpose of authorizing such tax.

Be it Enacted by the Legislature of Alabama:

Section 1. That the following Amendment to the Constitution of Alabama is hereby proposed, and an election by the qualified electors of the State is hereby ordered upon such proposed Amendment and the day appointed for such election shall be at the next general election held after the expiration of three months from the date of the final adjournment of the present session of the Legislature at which this amendment is proposed. The Amendment is as follows: "The Court of County Commissioners of Colbert County, Alabama, is authorized to divide said County into drainage districts for the control of malaria, and said County is authorized and empowered to levy and collect in the several districts so formed, for use in the control of malaria, in addition to all other taxes now authorized by law, a special tax of three mills on all taxable property situated in the several drainage districts so formed, based upon the valuation of such property as assessed for State taxation, and to be used exclusively for the control of malaria in the drainage district in which the said tax is levied and collected, provided such tax is authorized by a majority of the qualified electors residing in such drainage district voting upon such proposition at an election called and held for the purpose of authorizing such tax, and provided that said tax shall be levied and collected for a period of ten years from the time that it is authorized at the election held in such district. Such an election may be called at any time by the Court of County Commissioners of said County and shall be held and conducted and the results canvassed as now provided by law for holding and conducting and canvassing the returns of a regular election. The proceeds of the tax hereby authorized shall be used exclusively for the control of malaria in the drainage district in which it is levied and collected and shall be expended through the proper fiscal agencies of the County Government under the direction of the Governing Body of Colbert County, and the Colbert County Department of Public Health."

Section 2. That notice of the election hereby ordered, together with the Amendment hereby proposed, shall be given by a proclamation of the Governor, which shall be published in one newspaper once a week in each County in the State for at least four consecutive weeks next preceding the day hereby appointed for such election.

Section 3. That at the election hereby ordered to be held by the qualified electors of the State upon said proposed Amendment, the qualified electors of the State shall vote on said proposed Amendment and on the official ballots printed for such election there shall be printed the following, viz: "Shall the following be

adopted as an Amendment to the Constitution of Alabama?" "The Court of County Commissioners of Colbert County, Alabama, is authorized to divide said County into drainage districts for the control of malaria, and said County is authorized and empowered to levy and collect in the several districts so formed, for use in the control of malaria, in addition to all other taxes now authorized by law, a special tax of three mills on all taxable property situated in the several drainage districts so formed, based upon the valuation of such property as assessed for State taxation, and to be used exclusively for the control of malaria in the drainage district in which the said tax is levied and collected, provided such tax is authorized by a majority of the qualified electors residing in such drainage district voting upon such proposition at an election called and held for the purpose of authorizing such tax, and provided that said tax shall be levied and collected for a period of ten years from the time that it is authorized at the election held in such district. Such an election may be called at any time by the Court of County Commissioners of said County and shall be held and conducted and the results canvassed as now provided by law for holding and conducting and canvassing the returns of a regular election. The proceeds of the tax hereby authorized shall be used exclusively for the control of malaria in the drainage district in which it is levied and collected and shall be expended through the proper fiscal agencies of the County Government under the direction of the Governing Body of Colbert County, and the Colbert County Department of Public Health." Yes——, No——. The choice of the elector shall be indicated by an "X" mark made by him or under his direction opposite the word expressing his desire.

Section 4. The officers to hold such election shall be the same and shall be appointed in the same manner and by the same officials as provided by the election laws of the State for the appointment of officers to hold general elections in the State, and the election shall be held in all things in accordance with this Act, the law governing general elections and the constitutional provisions concerning Amendments to the Constitution.

Section 5. The votes cast at said election shall be canvassed, tabulated and returns thereof be made to the Secretary of State and counted in the same manner as in elections for Representatives to the Legislature; and if it shall thereupon appear that a majority of the qualified electors who voted at such election upon the proposed Amendment voted in favor of the same, such Amendment shall be valid to all intents and purposes as a part of the Constitution of Alabama. The result of such election shall be made known by Proclamation of the Governor.

Section 6. The expenses of the election hereby ordered upon said proposed Amendment and the costs of the publication of the

notices shall be paid out of the State Treasury in the same manner as the expenses of other elections are paid.

Passed the House of Representatives August 17, 1939.

Passed the Senate September 5, 1939.

No. 366)

(S. 116—Holmes

AN ACT

To amend Section 1106 of the Code of Alabama, 1923, as amended by the Legislature of 1927, relating to the control of venereal disease.

Be it Enacted by the Legislature of Alabama:

Section 1. That Section 1106 of the Code of Alabama, as amended by the Legislature of 1927, be and the same is hereby amended to read as follows: Section 1106. PERSONS REQUIRED TO BE TREATED.—The County Health Officer shall require all persons infected with a venereal disease to report for treatment to a reputable physician and continue treatment until such disease, in the judgment of the attending physician, is no longer communicable or a source of danger to public health. When such infected persons are unable to pay the attending physician's fees and in his judgment are indigent, they shall submit to treatment at public expense until discharged by the physician in charge of the clinic. Whenever in the judgment of the County Health Officer such a course is necessary to protect the public health, persons infected with venereal disease shall be isolated or quarantined. But whenever a person or persons infected with venereal disease shall refuse to take and continue treatment, as provided in this section, such person or persons may be committed to the county or city jail on order of the County Health Officer or physician in charge of a venereal disease clinic, and kept there for treatment until no longer a source of danger to the public health. Cost of feeding and keeping such person or persons shall be at the expense of the city in the event such person or persons reside in an incorporated municipality; otherwise, the same shall be at the expense of the county.

Section 2. That this Act shall take effect on its approval by the Governor.

Approved September 12, 1939.

No. 367)

(S. 353—St. John

AN ACT

To amend Section 3 of an Act entitled "An Act for providing medical, surgical, corrective and other services, care and treatment, and facilities for diagnosis, hospitalization and after-care for children who are crippled or

who are suffering from conditions which lead to a crippling, and to provide for its administration," approved September 9, 1935.

Be it Enacted by the Legislature of Alabama:

Section 1. That Section 3 of an Act entitled "An Act for providing medical, surgical, corrective and other services, care and treatment, facilities for diagnosis, hospitalization and after-care for children who are crippled or who are suffering from conditions which lead to a crippling, and to provide for its administration," be amended so as to read as follows: "Section 3. That all state and federal funds made available for carrying out the provisions of this Act shall be paid by the State Treasurer on warrants drawn therefor by the State Comptroller, on requisition of the State Superintendent of Education. All laws and parts of laws in conflict with this Act be and the same are hereby repealed."

Approved September 13, 1939.

No. 368)

(H. 125—Walden—Norman (Bullock)

AN ACT

To provide a Local Option Stock Law for the State of Alabama with the County as the unit; to provide local option elections to be held in any county to determine whether it shall be lawful for cows, calves, yearlings, oxen and bulls to go at large in any such county; to provide that this act shall be designated and cited as "The Local Option Stock Law for the State of Alabama with the County as the Unit"; to make it unlawful for live-stock or other animals to run at large upon the premises of another or on the public lands, roads, highways or streets in the State of Alabama; to make the owner thereof liable for damages done by such live-stock or animals; to provide for the taking up of such live-stock or animals by the owner or person in possession of any land so trespassed upon, or an agent of such parties or by any member of the State Highway Patrol, the Sheriff and his deputies of any county, the constable of any precinct, or any law enforcement officer of any municipality, and for the payment of certain fees in connection therewith; to provide for notice to the owner of any live-stock or animals taken up if such owner be known; to provide for proceedings before justices of the peace, mayors, or recorder's court in reference to the taking up of such live-stock or animals and for the payment of costs incurred in such suits; to provide also for the ascertainment and payment of damages to property caused by live-stock or animals unlawfully at large, and orders or judgments to be made in connection therewith, and for the enforcement thereof, and to provide for appeals to be taken from any judgment rendered by any justice of the peace, mayor or recorder under the provisions of this Act to the Circuit Court, or other court of like jurisdiction; to provide that in counties or municipalities where live-stock or animal pounds are maintained, any person or officer seizing any live-stock or animal may deliver such live-stock or animal so seized to the pound-keeper for safe-keeping; to provide that the owner of any live-stock or animal seized under the provisions of this enactment may make bond for the recovery of the live-stock or animal; to provide further for the sale of such live-stock or animal after the ascertainment of damages; to de-

fine and limit the term "live-stock" or "animal"; to define "open range county" and "stock law county" and to provide that no liability shall attach to any owner or operator of any vehicle of any kind who may injure or kill in either "open range" or "stock law" counties any horse, mare, mule, jack, jenny, colt, cow, calf, yearling, bull, oxen, sheep, goat, lamb, kid, hog, shoat or pig, while at large on any public highway; and to repeal all laws, general, special, local, and private and parts of laws in conflict herewith.

Be it Enacted by the Legislature of Alabama:

Section 1. **SHORT TITLE.** This Act shall be known and cited as "The Local Option Stock Law for the State of Alabama with the County as the Unit."

Section 2. That it shall be unlawful for the owner of any live-stock or animal, as hereinafter defined, to knowingly, voluntarily, negligently, or wilfully permit any such live-stock or animal to go at large in the State of Alabama either upon the premises of another or upon the public lands, highways, roads, or streets in the State of Alabama. Nothing in this Section or elsewhere in this act shall be construed to make it unlawful for livestock or other animals to run at large on the premises of another when the owner or person in charge of the premises has consented in writing to let livestock or other animals run at large on the same, or to subject the owner of such livestock or other animals to criminal prosecution therefor.

Schedule 3. The owner of such live-stock or animal being or running at large upon the premises of another or upon the public lands, roads, highways or streets in the State of Alabama shall be liable for all damages done to crops, shade or fruit trees or ornamental shrubs and flowers of any person, to be recovered before any court of competent jurisdiction; and the judgment of the court against the owner of such live-stock or animal so depredating shall be a lien superior to all other liens on the live-stock or animal causing the injury, in addition to other execution and judgment liens prescribed by law. Provided, however, that the owner of any stock or animal shall not be liable for any damages to any motor vehicle, or any occupant thereof, suffered, caused by, or resulting from a collision with such stock or other animal, unless it be proven that such owner knowingly or wilfully put or placed such stock upon such public highway, road or street, where such damages were occasioned.

Section 4. Any member of the State Highway Patrol, the sheriff and his deputies of any county, or the constable or any precinct or any law enforcement officer of any municipality shall take possession of any live-stock or animal found at large upon the premises of another or upon the public lands, roads, highways or streets in the State of Alabama, and when so taken up the owner of such live-stock or animal shall be notified personally,

or the owner may be notified by leaving a written notice at the usual place of residence of such owner, within twenty-four hours after taking up such live-stock or animal.

Section 5. The owner of the live-stock or animal shall have the right to secure such live-stock or animal upon the payment of a fee of one dollar for such head of live-stock or animal taken up to the officer taking up such live-stock or animal upon the public lands, highways, streets or roads in the State of Alabama, together with such damages, if any, as may have been suffered by any person, and together also with the actual cost of feeding such animal during the period held by such officer if there have been no proceedings in court. Upon such payment being made the fee of one dollar for taking up the animal shall be paid to the officer making the seizure, and the amount collected as damages and the actual cost of feeding the animal shall be paid over to the person damaged and to the person at whose expense such animal was fed during the period of retention. Provided, however, that for any seizure, if more than one animal be taken up, an additional fee of fifty cents shall be paid for each such additional head of live-stock or animal so taken up, but no fee shall be paid over and above five dollars, notwithstanding the number of animals so taken up.

Section 6. Any person who is the owner of, or in the lawful possession of, any land, or the agent of any such person, shall have the right to take possession of any live-stock or animal found at large, uncontrolled, on his premises, or on premises of which he has charge, and when so taken up the owner of such live-stock or animal shall be personally notified or, if the owner cannot be found, the owner may be notified by leaving a written notice at the usual place of residence of such owner, within twenty-four hours after the taking up of such live-stock or animal, and by posting notice as hereinafter provided in Section 8. Provided, however, that anything in this Act to the contrary notwithstanding the word "uncontrolled" as used herein shall in no case be construed to prohibit the driving of any animal, or stock, over, upon, or along the public streets and highways of this state, by the owner thereof, or his duly authorized agent.

Section 7. If the owner of any live-stock or animal found at large and uncontrolled on the premises of another, or upon the public lands, highways, roads, or streets in the State of Alabama be unknown, or, if the owner be known but have no place of residence within the county where the live-stock or animal be taken up, or cannot be located, the officer or person taking up the live-stock or animal shall within two days after so taking up, file a statement in writing with the justice of the peace of the precinct, or if none therein, with a justice of the peace of an adjoining precinct, or if the live-stock or animal be taken up within the limits of a municipality, the statement shall be filed with the clerk of

the mayor's or recorder's court, and such statement shall set forth: (1) The name and address of the person taking up the live-stock or animal, or, if an officer, the name, address, and official designation of the officer taking up the live-stock or animal; (2) A description of the live-stock or animal as to kind, sex, marks, brand, color and apparent age, where taken up, and where it is impounded; (3) The amount of damage claimed; (4) The amount of charges claimed for taking up and caring for the live-stock or animals; and, (5) If the livestock or animal be taken up by an officer, the amount of such officer's fee and the cost of feeding and caring for such live-stock or animal during such detention.

Section 8. The justice of the peace or the clerk of the mayor's or recorder's court shall give notice by posting in three public places in the precinct, setting forth the fact of such taking up, the description of the live-stock or animal, that the owner is unknown, or, if known, that he cannot be located, and notify any person claiming to be the owner of such live-stock or animal to appear before him at a place named not less than three days, nor more than six days from the date of such notice and prove such claim of ownership; provided, however, that if any such person appear at any time, and if the justice, the mayor or recorder, as the case may be, is satisfied that such person is the actual owner of such live-stock or animal, then the justice of the peace, mayor or recorder shall require the owner of the live-stock or animal to pay the officer's fee, together with the cost of feeding and caring for such animal, as herein provided, and the justice's, mayor's or recorder's costs, which in no case shall exceed \$2.00, and for all damages done to crops, shade or fruit trees or ornamental shrubs of any person, which damage shall be ascertained by the justice, mayor or recorder, and after such ascertainment paid to the person damaged, or to the justice, mayor or recorder, as the case may be, for the use of the person damaged, whereupon such live-stock or animal shall be delivered to such claimant. If no person claiming to be the owner appear on the day set for hearing, the justice of the peace, mayor, or recorder shall proceed to ascertain and determine whether or not such live-stock or animal was unlawfully at large upon the premises of another, or upon the public lands, highways, roads, or streets in Alabama, and he shall proceed to inquire and ascertain the amount of such damages and charges, and if he shall ascertain and determine that such live-stock or animals were unlawfully at large on the premises of another, or on the public lands, highways, roads or streets in the State of Alabama, he shall make and enter on his docket an order in substance: "It appearing on complaint of A B (or any member of the State Highway Patrol or any sheriff or his deputies, constable of any precinct or the law enforcement officer of any municipality, as the case may be) that a cow (or hog or other animal, as the case may

be) was unlawfully on the premises or land of A B (or C D, as the case may be) (or upon the public lands, highways, roads or streets in the State of Alabama, as the case may be), and that the owner thereof is unknown, and that the said animal has damaged the crop (or shade or fruit trees or ornamental shrubbery of A B (or C D, as the case may be) to the amount of \$_____, it is hereby ordered and adjudged that the said (A B (or such member of the State Highway Patrol or such sheriff or his deputy, constable or law enforcement officer of any municipality, as the case may be) is entitled to \$_____ for taking up and/or for caring for said animal, and that the said animal be sold for the satisfaction thereof, together with costs of court."

Section 9. If on the trial of any suit or proceeding brought hereunder it is ascertained and adjudged by the justice of the peace, the mayor or recorder that the live-stock or animal taken up by the party complaining was not unlawfully at large upon the premises of another or upon the public lands, highways, roads, or streets in the State of Alabama, he shall render a judgment directing that such live-stock or animals be discharged and taxing the party complaining with all the costs.

Section 10. The person or officer taking up such live-stock or animal shall be entitled to possession thereof until the judgment which may be recovered as herein provided is paid, together with the costs of the same and the cost of keeping and caring for such live-stock or animal after such judgment, or until the same is sold under execution to satisfy said judgment, provided, that the cost of keeping and caring for such live-stock or animal under such circumstances shall be upon the same basis as that previously determined as a proper charge for the maintenance of such live-stock or animal prior to the entering of such judgment.

Section 11. In counties or municipalities where live-stock or animal pounds are maintained any person or officer seizing any live-stock or animal may deliver such live-stock or animal so seized to the poundkeeper for safekeeping and the county or municipality shall be refunded any amounts which may be expended for keeping and feeding any live-stock or animal, as provided in Section 5 of this Act, but not to exceed fifty cents per day per head, as provided in Section 12 of this Act.

Section 12. The owner of any live-stock or animal which has been seized as provided herein shall have the right to possession of the same by paying such judgment and the costs thereof, or, if no judgment has been entered, by paying such damages as may be agreed upon together with fees and costs and expenses due on account of such seizure to the person or officer so seizing such live-stock or animal, or to the person who may at the time of such payment have such live-stock or animal in his possession, and by paying to the court the costs of the court incurred to the time of

such payment; but should the parties be unable to agree upon the amount of damages, fees, costs, and expenses due, either party shall have the right to go before any justice of the peace within the precinct where said live-stock or animal is seized or taken up, or before the mayor or recorder of the municipality, as the case may be, and have the issue tried after first giving the opposite party one day's notice thereof on the day following or as soon thereafter as may be practicable on a written statement or complaint setting forth in substance the facts of such seizure; and said issue shall involve the validity of such seizure and the amount of damages, fees, costs and expenses under the provisions of this Act and the judgment of the said justice of the peace, mayor, or recorder shall have all the force and effect of a judgment in any other case at law and be executed in the same manner as any other judgment of a justice court, mayor's or recorder's court is enforced. When the owner of such live-stock or animal so taken up gives bond in double value of the same, payable to the person so taking up said property and approved by the justice of the peace, mayor, or recorder before whom the proceedings are pending, conditioned to deliver such property to the constable or other legal officer having the right of execution or order of sale within five days after such judgment to satisfy such judgment as to damages and costs, such live-stock or animal shall be released to the owner. If upon the trial it is shown that the owner of said live-stock or animal tendered to plaintiff full and fair compensation for damages before suit and pays the same into Court, then the suit shall be dismissed at cost of plaintiff. On the trial of such issues the party taking up such live-stock or animal shall be the plaintiff in the action. If such live-stock or animal be taken up upon the public lands, highways, roads or streets in the State of Alabama by any member of the State Highway Patrol, or by the sheriff of any county or the constable of any precinct or by the law enforcement officer of any municipality, such live-stock or animal shall be released to its owner upon the payment of the fee of \$1.00 to the officer taking up such animal, or the additional fee as provided in Section 5 of this Act, together with damages, if any, suffered by any person, which shall be paid to such person, and the actual cost of feeding such live-stock or animal during the period held by such officer, or by any person acting in behalf of himself or under the direction of such officer. Upon such payment being made there shall be prepared a receipt in duplicate on forms prepared by the Attorney General of the State of Alabama, one copy of which shall be delivered to the owner upon payment of such fee, costs, and damages, if any, and one copy to be retained by the officer to whom payment is made. At the time of delivering such live-stock or animal to the owner, the owner shall be furnished with an itemized account of the damage done, if any, and of the cost of

keeping such live-stock or animal during such detention and a duplicate of such statement and a statement of the amount collected shall be retained by the officer to whom payment is made. Provided, however, that the amount for keeping and feeding shall not exceed the actual cost of feeding and caring for such live-stock or animal, and in no case in excess of fifty cents per day per head. In case the owner is unknown, or, if known, such owner cannot be located, the justice of the peace, mayor or recorder shall determine the validity of the seizure and the amount of damages, fees, costs and expenses under the provisions of this Act from such evidence as shall be adduced before him. The fees and costs of the justice of the peace, mayor or recorder and the officer making the seizure on such trials shall be the same as the fees of such officers in other trials in a justice, mayor's or recorder's court for like services. From any judgment rendered by the justice of the peace, mayor or recorder under the provisions of this Act an appeal may be taken to the circuit or other court of like jurisdiction in such county within five days from the rendition of such judgment in the same manner as appeals are taken from judgments of the justice of the peace, mayor's or recorder's courts in other cases.

Section 13. If the owner or his agent shall not under the provisions of this Act, when he has made no bond, as above provided, reclaim his live-stock or animal within twenty-four hours after the justice of the peace, mayor or recorder shall have ascertained such damages, then the justice of the peace, mayor or recorder shall order the same sold by a constable of the precinct or by some one appointed to act as such or by the sheriff or his deputies or by the law enforcement officer of a municipality and the constable or the person appointed to act as such, or such other officer as is herein specified, upon the making of such order, shall sell the same upon giving five days' notice of such sale by publication one time in a newspaper published in the county, said notice to contain a brief description of the live-stock or animal to be sold, and the time and place of sale, and out of the proceeds pay the expenses of such sale, and of making the order of sale, and the order of condemnation, and the fees and damages due the plaintiff, and the expenses of taking up, keeping, and caring for such live-stock or animal, and the balance must be paid to the owner of such live-stock or animal, if known, and if not known, then into the county treasury or the treasury of the municipality if the proceedings be held before the mayor or recorder thereof. The justice of the peace shall be entitled to fifty cents for making the order of sale, and the officer making the sale shall be entitled to \$1.00 for making such sale and posting the notices. When the proceeding is held before the mayor or recorder of any municipal court a fee of fifty cents shall be added to the costs and an additional charge of \$1.00 shall be made for the services of the clerk or other

officer for making such sale and posting the notices, which such additional items of cost shall be paid into the municipal treasury.

Section 14. The term "Live-stock" or "animal" where it occurs in this Act, shall be held to be limited to and refer to horses, mares, mules, jacks, jennies, colts, cows, calves, yearlings, bulls, oxen, sheep, goats, lambs, kids, hogs, shoats and pigs.

Section 15. On and after March 1, 1941, it shall be unlawful for horses, mares, mules, jacks, jennies, colts, cows, yearlings, bull, oxen, sheep, goats, lambs, kids, hogs, shoats and pigs to go at large in any county of the State of Alabama. An election may be held, however, in the manner hereinafter prescribed in any county in the State of Alabama after the passage of this enactment and its approval by the Governor to determine the sentiment of the voters of each such county as to whether cows, calves, yearlings, oxen, and bulls may go at large in each such county. Upon a petition of 25% of the number of qualified electors voting in such county in the last preceding general election being filed with the Probate Judge of any county, the said Probate Judge of such county must call an election to determine the sentiment of the people as to whether or not cows, calves, yearlings, oxen, and bulls may go at large in said county. The first said election for the determination of this question may be held in any county at any time after the effective date of this Act. The appointment of officers to hold any such election shall be made in the same manner as appointments to conduct other elections. Provided, if the election is held at the same time of a primary or general election the officers appointed for such primary or general election shall hold the election hereunder. Subject to the above limitations, said election, or any election held under the terms of this enactment, shall be held within not less than 30 days nor more than 45 days from the date of filing said petition, and notice thereof shall be given by the Probate Judge by publication at least three weeks before the date of said election in a newspaper published in such county, or if there be none, by posting such notice at the Court House door of said county, apprising the voters of the county that an election will be held in the several precincts thereof to determine whether such county shall be controlled in its entirety by this enactment or whether in such county cows, calves, yearlings, oxen and bulls may be permitted to go at large. The cost of the publication of notice and the cost of said election shall be paid out of the general funds of the County. On the ballot to be used for such election the question shall be in the following form: "Do you oppose the running at large within this county of cows, calves, yearlings, bulls and oxen, in accordance with the provisions of the Local Option Stock Law for the State of Alabama with the County as the unit? Yes..... No....." Only qualified electors shall vote in said election. If a majority of the electors voting in

said election vote "Yes" then it shall be unlawful for cows, calves, yearlings, oxen and bulls to run at large in said county until said county shall in a subsequent election held under this Act indicate that it wishes cows, calves, yearlings, oxen and bulls to go at large. If a majority of the electors voting in said election vote "No", said county shall be an "Open Range County" under the terms of this Act until it shall, by a subsequent election held under this Act, vote that it shall be unlawful for cows, calves, yearlings, bulls and oxen to go at large in said county. After one such election there can be no other election for such purpose held in such county within two years, and thereafter no additional election may be held within two years from the date of the last prior election. For the purpose of this Act, the term "Stock Law County" shall mean any county which does not vote "Open Range", and the term "Open Range County" shall be understood to mean any County which by a majority of those voting, may direct that it shall be lawful for cows, calves, yearlings, oxen and bulls to go at large in such county. In all "Open Range Counties" or "Stock Law Counties" as herein defined, if any horse, mare, mule, jack, jenny, colt, cow, calf, yearling, bull, oxen, sheep, goat, lamb, kid, hog, shoat, or pig be injured or killed while at large on any public highway, no liability for the injury to or death of such animal shall attach to the owner or operator of any vehicle of any kind causing the injury or death, unless it be shown that such injury or death was the result of wilful or wanton conduct of the operator of the vehicle.

Section 15-1/2. If any county shall have one or more stock law districts in which cows, calves, yearlings, bulls and oxen are prohibited from running at large, but less than the whole county under such stock law, at the time this Act is passed and approved, then an election held hereunder at which the vote is in favor of cows, calves, yearlings, bulls and oxen running at large shall not repeal any such stock law in such stock law district or districts existing at the time of the passage and approval of this Act.

Section 16. If any paragraph, portion, part, sentence, provisions, or word of this Act shall be held invalid by any Court of competent jurisdiction, such holding shall not affect any other portion, paragraph, part, sentence, provision or word of this act, and the Legislature hereby declares that the provisions of this Act, are severable, and that it would have passed this Act without such invalid portion or portions.

Section 17. On and after March 1st, 1941, all laws or parts of laws, general, special, local and private in conflict herewith are hereby repealed, except that this Act shall not be construed to repeal any municipal stock law, nor shall an election held hereunder repeal any municipal stock law, nor shall this Act be held to prevent any municipality from enacting a stock law ordinance.

Section 18. This Act shall take effect upon its approval by the Governor.

Approved September 13, 1939.

No. 369)

(H. 192—Robertson of Cullman

AN ACT

To amend Subsections (2), (4(b)), and 5 of Section 346.1, Chapter 1, Article 12, of the Revenue Act of 1935 relating to financial institutions.

Be it Enacted by the Legislature of Alabama:

Section 1. That subsections (2), (4(b)), and (5) of Section 346.1, Chapter 1, Article 12, of the Revenue Act of 1935 be amended to read as follows: Subsection 2. INTEREST. All interest paid or accrued within the taxable year on the indebtedness of said business. Also, all dividends paid or accrued within the taxable year on the shares of preferred stock held or owned by Reconstruction Finance Corporation or any other governmental agency. Subsection 4 (b). No loss shall be allowable unless the property is actually disposed of and the loss thereby determined or an appraisal of the loss is made and allowed under the supervision of the State Department of Revenue, except as herein after provided. Subsection 5. BAD DEBTS. Debts ascertained to be worth less and charged off within the taxable year. Provided, however, that a schedule of such debts shall be filed and the reasons supporting such claims for deduction be filed with the return. Provided, further, that bad debts shall not include losses on stocks and bonds or a reduction in the market value of such stocks and bonds except where loss is determined by the sale of such securities. Provided, however, in the case of any financial institution required by law to be examined by State, Federal, or Federal Reserve Bank Examiners, such debts can be charged off and to such an amount or extent as required to be charged off by State, Federal, or Federal Reserve Bank Examiners. And provided further that any reduction in the book value of any stocks or bonds carried on the books of any such financial institution required by any State, Federal, or Federal Reserve Bank Examiners shall be allowed as proper deductions by the State Tax Commission. Provided, further, that on the sale of any securities, the book value of which has been reduced on the requirement of such Examiners, and the reduction so made claimed as a deduction, accomplishing a reduction of the tax paid, any excess of the sale price over said book value of such securities shall be reflected as income and subject to the excise tax levied by this chapter. Provided, further, that when in the opinion of State, Federal, or Federal Reserve Bank Examiners a debt is

recoverable only in part and when a part of such debt is charged off by requirement of State, Federal, or Federal Reserve Bank Examiners, the State Tax Commission shall allow a deduction in an amount equal to the amount of such charge-off.

Section 2. This Act shall become effective upon its passage and approval by the Governor.

Approved September 13, 1939.

No. 370)

(H. 352—Hare

AN ACT

To Amend Schedule 12 of Section 348, of the Revenue Act of 1935, Approved July 10, 1935, as amended by Act No. 163 of the 1936-1937 Extra Session of the Legislature of Alabama.

Be it Enacted by the Legislature of Alabama:

That Schedule 12 of Section 348 of the Revenue Act of 1935, approved July 10, 1935, as amended by Act No. 163 of the 1936-1937 Extra Session of the Legislature of Alabama, be and the same is hereby amended to read as follows: Schedule 12. Each person dealing in, selling or purchasing for resale automobiles, trucks or other self-propelled vehicles, other than motor-cycles, tractors or other motor vehicles otherwise licensed, shall pay an annual State license as provided below, and shall pay a county license of one-half of the amount of his State license for the use of the counties. The following license shall be paid by each dealer, each agent or other person, except agents of a dealer who has procured the license herein required: In cities and towns of over 50,000 inhabitants -----\$140.00 In cities and towns of over 25,000 inhabitants and not exceeding 50,000 inhabitants -----\$100.00 In cities and towns of over 10,000 and not exceeding 25,000 inhabitants -----\$80.00 In cities and towns of over 5,000 inhabitants and not exceeding 10,000 inhabitants ----- \$65.00 In cities and towns of over 2,500 and not exceeding 5,000 inhabitants ----- \$50.00 In cities and towns of 2,500 inhabitants and less ----- \$30.00 In all other places whether incorporated or not ----- \$30.00 (b) Provided, a person maintaining more than one place of business for the sale of automobiles, trucks or other self-propelled vehicles as above enumerated, shall pay an additional license of one-half of the license levied on his principal place of business for each additional place of business in excess of one; provided a licensed dealer may maintain a used car lot for the sale of used or second-hand cars, without the payment of an additional license. (c) Provided, further, that upon the payment of the license according to the foregoing schedule, such dealer shall not be required to pay the license as provided by Schedules Nos. 13, 14, 16, and 20 of Section 348 of the Revenue Act of 1935,

to engage in the business licensed under said Schedules. (d) All dealers or other persons licensed under this schedule must on the 1st, 10th and 20th of each month file a sworn report of their sales of new and used motor vehicles, with the Commissioner of Motor Vehicles, and a copy of same to the Probate Judge in the county where such business is conducted, on forms to be furnished by the Commissioner of Motor Vehicles. Failure to make and file these reports as aforesaid shall constitute a misdemeanor, and shall, upon conviction, be punishable by a fine of not less than \$5.00, nor more than one hundred dollars (\$100.00). (e) A purchaser of a new or used motor vehicles may be granted four days from date of purchase in which to procure license tags. The date of sale of such motor vehicles is to be placed on such motor vehicles in the manner and form as prescribed by the Commissioner of Motor Vehicles. (f) Provided, further, that a dealer who has a license under this schedule shall be permitted to procure one demonstration tag for each salesman in his employ, at a cost of \$1.00. Such dealer tags may be used for displaying, demonstrating, transporting and testing new and used passenger cars and trucks, and such other uses incident to conducting a general automobile agency and that such dealer automobile license tags may be used at any time, or on any day or night, and that any prospective purchaser may make demonstrations to his own satisfaction without the automobile dealer's representative being in attendance.

Schedule 12½. Each person, dealer or agent selling, offering to sell, or soliciting orders for the sale of motor vehicles to the ultimate consumer, who does not maintain a regularly established place of business in this State for the sale of such motor vehicles, shall be required to pay an annual license of \$200.00 for use of the State and \$100.00 for use of the county. Both a State and county license shall be payable in each county in which such person engages in any of the activities herein mentioned in this subsection. All laws, general, special or local, in conflict with the provision of this Act are hereby repealed except the sales or use tax. The Act shall become effective upon its passage and approval by the Governor.

Approved September 22, 1939.

No. 371)

(H. 365—Gewin

AN ACT

To amend Section V of an Act entitled "An Act to further provide for the general revenue of the State of Alabama," approved February 8, 1939.

Be it Enacted by the Legislature of Alabama:

Section 1. That Section V of an Act entitled "An Act to provide for the general revenue of the State of Alabama," approved February 8, 1939, be and the same is hereby amended so as to read as follows: "Section V. EXEMPTIONS: There are however exempted from the provisions of this act and from the computation of the amount of the tax levied, assessed or payable under this Act the following: (a). The gross proceeds of sales of tangible personal property or the gross receipts of any business which the State is prohibited from taxing under the Constitution or laws of the United States of America or under the constitution of this State. (b) The gross proceeds of sales of tangible personal property to the State of Alabama, to the counties within the State, and to incorporated municipalities of the State of Alabama. (c) The gross proceeds of the sales of lubricating oil and gasoline as defined in Schedules 138 and 156, respectively, of Section 348 of House Bill 324, approved July 10, 1935, or any amendments thereto, which are otherwise taxed. (d) The gross proceeds of the sales of textbooks used in elementary schools, high schools, and institutions of higher learning. (e) The gross proceeds of sales of alcoholic and/or cereal beverages, the sale of which is now, or may hereafter, be controlled and/or licensed under the provisions of the "Alabama Beverage Control Act," or any amendments thereto. (f) The gross proceeds of sales of livestock, poultry and other products of the farm, dairy, grove or garden, when in the original state of production or condition of preparation for sale, when such sale or sales are made by the producer or members of his immediate family or for him by those employed by him to assist in the production thereof. Nothing herein shall be construed to exempt or exclude from the measure or computation of the tax levied, assessed or payable hereunder, the gross proceeds of sales of poultry or poultry products when not products of the farm. (g) The gross proceeds of the sale, or sales, of fertilizer. The word "fertilizer" as used in this Act, shall not be construed to include cotton seed meal, when not in combination with other materials. (h) The gross proceeds of the sale, or sales, of seeds for planting purposes. Nothing herein shall be construed to exempt, or exclude from the computation of the tax levied, assessed or payable, the gross proceeds of the sale or sales of plants, seedlings, nursery stock or floral products. (i). The gross proceeds of the sale, or sales of boxes, crates, bags, bagging, ties, barrels, or other containers and the labels thereof used in preparing agricultural products, dairy products, grove or garden products for market, including barrels and other containers and the labels thereof used in preparing turpentine gum, gum spirits of turpentine and gum resin for market, when such boxes, crates, bags, bagging, ties, barrels and other containers and the labels thereof are

to be sold or furnished by the seller of the products contained therein to the purchaser of such products. (j). The gross proceeds of the sale, or sales of newsprint paper, newspapers and religious publications. (k). The gross proceeds of the sale, or sales of coal or coke to manufacturers, electric power companies and transportation companies for use or consumption in the production of by-products, or the generation of heat or power used, (1) in manufacturing tangible personal property for sale, (2) for the generation of electric power or energy for use in manufacturing tangible personal property for sale or for sale, (3) for the generation of motive power for transportation. (1). The gross proceeds of the sale, or sales of those articles containing tobacco, as enumerated in and taxed under the provisions of Schedule 159 of Section 348 of H.B. 324 approved July 10, 1935, and any amendments thereto. (m). The gross receipts from the business on which, or for engaging in which a license or privilege tax is levied by or under the provisions of Section 140, 141, 142, 143, 145, 146, 147 and 149 of H.B. 324 approved July 10, 1935, entitled "An Act to provide for the general revenue of the State of Alabama," or any amendments thereto. Provided, however, that nothing contained in this subsection shall be construed to exempt or relieve the person or persons operating the businesses enumerated in said sections 140, 141, 142, 143, 145, 146, 147 and 149 from the payment of the tax levied by this Act upon or measured by the gross proceeds of sales of any tangible personal property, (except gas and water, the gross receipts from the sales of which are the measure of the tax levied by said section 140), merchandise or other tangible commodities sold at retail by said persons, unless the gross proceeds of sale thereof are otherwise specifically exempted by the provisions of this Act. (n) The gross proceeds of the sale or sales of railroad rails, railroad cars and vessels and barges of more than fifty tons burden, when sold by the manufacturers or builders thereof. (o) The gross proceeds of the sale or sales of lunches to school children when such sales are made within school buildings and are not for profit. (p) The gross proceeds of sale or sales of used automotive vehicles. (q) The gross proceeds of sales or gross receipts, of or by, any person, firm or corporation, from the sale of transportation, gas, water or electricity, of the kinds and natures, the rates and charges for which, when sold by public utilities, are customarily fixed and determined by the Public Service Commission of Alabama or like regulatory bodies. (r). The gross proceeds of the sale of machines used in mining, quarrying, compounding, processing and manufacturing of tangible personal property; provided that the term "machines", as herein used, shall include machinery which is used for mining, quarrying, compounding, processing or manufacturing tangible personal property, and the parts of such machines, attachments and

replacements therefor, which are made or manufactured for use on or in the operation of such machines and which are necessary to the operation of such machines and are customarily so used. (s). The gross proceeds of the sale or sales of fluid milk as is now or may hereafter be defined by law when such sale or sales are made by a distributor who has purchased such fluid milk or the milk processed into such fluid milk direct from the producer thereof. Provided, however, that the term 'distributor' as used here shall not be construed to include hotels, restaurants, cafes, cafeterias, drug stores, grocery stores and other retail establishments where milk is served or sold for consumption on the premises or as an incident to the principal business.

Approved September 13, 1939.

No. 372)

(H. 425—Sessions

AN ACT

To Amend Section 7057 Of The 1923 Code of Alabama

Be it Enacted by the Legislature of Alabama:

Section 1. That Section 7057 of the 1923 Code of Alabama be and the same is amended to read as follows: 7057. Fifteen or more persons may become a body corporate, without capital stock, for the purpose of doing the business of a mutual aid, benefit, and industrial company or association, as follows: (1) Said persons shall make and file a certificate in the office of the Judge of Probate of the county in which its principal place of business is proposed to be located. The certificate shall show the following: (2) The name of the proposed corporation. (3) The location of the principal office in this state. (4) That the object or purpose of the corporation is to do business as a mutual aid, benefit, and industrial company or association, with the powers and privileges prescribed by the laws of the State of Alabama. (5) That the incorporators have entered into bona fide agreements, for insurance, of the kind authorized to be done by mutual aid, benefit, and industrial companies or associations, with not less than five hundred persons, and shall have received therefrom not less than twenty-five thousand dollars in cash. (6) That said sum of money is in the possession of two of the incorporators, designated by the subscribers to receive such money. (7) Any other matters providing for the conduct of the business of the proposed corporation not inconsistent with the laws of the State of Alabama. (8) The names, residences, and postoffice addresses of seven persons, selected from among the incorporators as trustees for said corporation, for its first year.

Approved September 13, 1939.

No. 373)

(H. 426—Sessions

AN ACT

To Amend Section 7054 Of The 1923 Code of Alabama

Be it Enacted by the Legislature of Alabama:

Section 1. That Section 7054 of the 1923 Code of Alabama be and the same is amended so as to read as follows: 7054. Before doing business in this state, such corporation must file with the Superintendent of Insurance of the state a certified copy of the articles of incorporation, which must be filed by him in his office, and must also make proof as may be required by said commissioner, under oath, of its officers authorized thereto, that said corporation has received and has on hand the sum of not less than twenty-five thousand dollars in cash, derived from the payments of subscriptions to its capital stock.

Approved September 13, 1939.

No. 374)

(H. 427—Sessions

AN ACT

To Amend Section 7048 Of The 1923 Code Of Alabama

Be it Enacted by the Legislature of Alabama:

Section 1. That Section 7048 of the 1923 Code of Alabama be and the same is amended so as to read as follows: 7048. No such corporation shall be organized with a capital stock of less than twenty-five thousand dollars, nor shall any such corporation be organized or commence business unless it has received not less than the sum of twenty-five thousand dollars in payment in cash for subscriptions to its capital stock. Nothing contained in this article shall be construed to require any corporation organized before the approval of this Act as a mutual aid, benefit, or industrial company or association, and doing business in this state, to increase its capital stock.

Approved September 13, 1939.

No. 376)

(H. 490—McGowin

AN ACT

To amend Section XXII of an Act entitled "An Act to further provide for the general revenue of the State of Alabama," approved February 28, 1939.

Be it Enacted by the Legislature of Alabama:

Section 1. That Section XXII of an Act entitled "An Act to further provide for the general revenue of the State of Alabama," approved February 28, 1939, be and the same is hereby amended to read as follows: Section XXII. All taxes, fees, interest or penalties imposed and all amounts of tax herein required to be paid to the State under this Act must be paid to the Department of Revenue at Montgomery, Alabama, with remittance payable to the State Treasurer of Alabama. The funds received or collected by the Department under the provisions of this Act shall be, without delay, deposited in the State Treasury. The amount remaining after payment of all expenses incurred by the Department in the collection of such funds or the administration of this Act, shall be paid into the Special Educational Trust Fund to be expended as the other moneys in said fund.

Section 2. All laws and parts of laws, general, special or local, in conflict with the provisions of this Act be and the same are hereby expressly repealed.

Section 3. That this Act shall become effective immediately upon its passage and approval by the Governor or its otherwise becoming a law.

Approved September 13, 1939.

No. 377)

(H. 510—Hodo

AN ACT

To provide for the transfer of any unencumbered balance in the Highway Patrol Fund at the end of each two-year licensing period provided for in Section 1 of an Act entitled "An Act to provide for the public safety; to regulate the operation of motor vehicles on the public highways; to provide for the registration, examination and licensing of drivers or operators of motor vehicles and to fix the fees therefor; to authorize the Director of Public Safety, with the approval of the Governor, to establish and promulgate reasonable rules and regulations concerning the operation of motor vehicles; to provide punishment and penalties for the violation of the provisions of this Act and of the rules and regulations authorized hereby; to provide for the suspension and revocation of drivers' licenses issued; to authorize the appointment or employment of the necessary officers and agents, and the purchase of the necessary equipment to make the provisions hereof effective; and to provide for the compensation of the officers and agents so employed; and to repeal all laws and parts of laws in conflict herewith," approved March 18, 1939, into the State Treasury to the credit of the General Fund.

Be it Enacted by the Legislature of Alabama:

Section 1. That any unencumbered balance in the Highway Patrol Fund at the end of each two-year licensing period provided for in Section 1 of an Act entitled "An Act to provide for the pub-

lic safety; to regulate the operation of motor vehicles on the public highways; to provide for the registration, examination and licensing of drivers or operators of motor vehicles and to fix the fees therefor; to authorize the Director of Public Safety, with the approval of the Governor, to establish and promulgate reasonable rules and regulations concerning the operation of motor vehicles; to provide punishment and penalties for the violation of the provisions of this Act and of the rules and regulations authorized hereby; to provide for the suspension and revocation of drivers' licenses issued; to authorize the appointment or employment of the necessary officers and agents, and the purchase of the necessary equipment to make the provisions hereof effective; and to provide for the compensation of the officers and agents so employed; and to repeal all laws and parts of laws in conflict herewith," approved March 18, 1939, shall be transferred from said fund and covered into the State Treasury to the credit of the General Fund.

Section 2. That at the end of each such two-year licensing period, the State Comptroller is authorized and directed to draw his warrant against the Highway Patrol Fund for any unencumbered balance therein payable to the State Treasurer to be covered by him into the State Treasury to the credit of the General Fund.

Section 3. That all laws and parts of laws, general, special or local, in conflict with the provisions of this Act are hereby expressly repealed.

Section 4. That this Act shall become effective immediately upon its passage and approval by the Governor or its otherwise becoming a law.

Approved September 15, 1939.

No. 378)

(H. 511—Hodo

AN ACT

To make an appropriation for the support and maintenance of the Alabama Vocational School for Girls.

Be it Enacted by the Legislature of Alabama:

Section 1. That the sum of \$7,500.00 be and the same is hereby appropriated annually out of the State Treasury for each of the fiscal years ending September 30, 1940, September 30, 1941, September 30, 1942 and September 30, 1943 to the Alabama Vocational School for Girls located at Birmingham, Alabama, to be used for the support and maintenance of said school.

Section 2. That this Act shall become effective on October 1, 1939.

Approved September 15, 1939.

No. 379)

(H. 513—Hodo

AN ACT

To provide that all moneys accruing to or collected by or through the Department of Commerce or any bureau or division thereof, or as a result of any law which the Department of Commerce or any bureau or division thereof may now or hereafter be charged with the duty of administering shall, when collected, be covered into the State Treasury to the credit of the General Fund.

Be it Enacted by the Legislature of Alabama:

Section 1. That all moneys accruing to or collected by or through the Department of Commerce or any bureau or division thereof or as a result of any statute which said Department of Commerce or any bureau or division thereof may now or hereafter be charged with the duty of administering shall, when collected, be covered into the State Treasury to the credit of the General Fund; provided, however, that the provisions hereof shall not apply to the moneys appropriated to said department from time to time from the General Fund.

Section 2. That all laws and parts of laws, general, special or local, in conflict with the provisions of this Act are hereby expressly repealed.

Section 3. That this Act shall become effective on October 1, 1939.

Approved September 15, 1939.

No. 380)

(H. 514—Hodo

AN ACT

To provide that all moneys accruing to or collected by or through the State Securities Commission or as a result of any statute which said State Securities Commission may now or hereafter be charged with the duty of administering shall, when collected, be covered into the State Treasury to the credit of the General Fund.

Be it Enacted by the Legislature of Alabama:

Section 1. That all moneys accruing to or collected by or through the State Securities Commission or as a result of any statute which said State Securities Commission may now or hereafter be charged with the duty of administering shall, when collected, be covered into the State Treasury to the credit of the General Fund; provided, however, that the provisions hereof shall not apply to the moneys appropriated to said department from time to time from the General Fund.

Section 2. That all laws and parts of laws, general, special or local, in conflict with the provisions of this Act are hereby expressly repealed.

Section 3. That this Act shall become effective on October 1, 1939.

Approved September 15, 1939.

No. 381)

(H. 522—Segrest

AN ACT

To make an appropriation for the support and maintenance of the Tuskegee Institute.

Be it Enacted by the Legislature of Alabama:

Section 1. That the sum of \$10,000.00 be and the same is hereby appropriated annually out of the State Treasury for each of the fiscal years ending September 30, 1940, September 30, 1941, September 30, 1942 and September 30, 1943 to the Tuskegee Institute located at Tuskegee, Alabama, to be used for the support and maintenance of said school.

Section 2. That this Act shall become effective on October 1, 1939.

Approved September 15, 1939.

No. 382)

(H. 562—Lovelace

AN ACT

To authorize each County and the Governing Body thereof, with the approval of the Governor, to acquire by donation and purchase and improve lands for County, State, National, and public purposes, and appoint Trustees without compensation for that purpose.

Be it Enacted by the Legislature of Alabama:

Section 1.—That each of the several Counties within the State and the Governing Bodies thereof, are authorized with the approval of the Governor, but not compelled to acquire lands by donation or purchase, one or both, and make improvements thereon for County, State, National, and Public purposes.

Section 2.—That such lands may be used, among other things, for the following public purposes: (1) For the recreation, health, and betterment, of the people within the county; (2) For the betterment and improvement of all useful and ornamental vegetable life; including agriculture, arborculture, horticulture, and experimenting with growth and seeds of ornamental shrubs, trees, and flowers; (3) For the betterment of all animal life including domestic

animals, wild life, fish, and fish hatchery; (4) Including the collection and exhibit of minerals and all native products; (5) Including the creation and maintenance of springs, streams, and lakes thereon; (6) Including other improvements thereon such as Fair Grounds, Athletic Fields, Museums, Military Grounds, State Armory, Hospitals, School Buildings; (7) And such other improvements and buildings thereon as may be deemed necessary for public purposes.

Section 3.—That the County Governing Body is authorized, with the approval of the Governor, to appoint a Board of three Trustees for the acquisition and maintenance of said lands and property; That said trustees shall be graduates of some High School or some reputable college, shall be men or women of public spirit, of means, and shall serve without compensation; That their terms and successors shall be fixed and determined by the Governing body of the County with the approval of the Governor; That a trust fund may be created by public donations or otherwise for the acquisition and maintenance, of such property and lands; That it shall be lawful for the County, State, and National Government to contribute to the acquisition and maintenance of said lands and property. That the Governing Body of the County is authorized hereunder to make such contracts as may be deemed necessary; That this Act shall be in full force from the date of its enactment or approval by the Governor.

Section 4.—All laws or parts of laws in conflict herewith are hereby expressly repealed, insofar as they conflict.

Section 5.—This Act shall take effect immediately upon its passage and approval by the Governor, or its otherwise becoming a law.

Approved September 15, 1939.

No. 383)

(H. 609—Langley

AN ACT

To make an appropriation for the support and maintenance of the Southern Industrial Institute.

Be it Enacted by the Legislature of Alabama:

Section 1. That the sum of \$5,000.00 be and the same is hereby appropriated annually out of the State Treasury for each of the fiscal years ending September 30, 1940, September 30, 1941, September 30, 1942 and September 30, 1943 to the Southern Industrial Institute located at Camp Hill, Alabama, to be used for the support and maintenance of said school.

Section 2. That this Act shall become effective on October 1, 1939.

Approved September 15, 1939.

No. 386)

(H. 516—Kaul

AN ACT

To amend Section 1 of an Act entitled "An Act to provide that the proceeds of the excise tax levied by Schedule 138.1 of Section 348 of Chapter 1 of Article XIII of an Act entitled 'An Act to provide for the general revenues of the State of Alabama,' approved July 10, 1935, commonly known as the lubricating oil tax, shall, when collected, be covered into the State Treasury to the credit of the State Highway Patrol Fund, and to repeal all laws and parts of laws, general, special or local, in conflict herewith," approved March 17, 1939.

Be it Enacted by the Legislature of Alabama:

Section 1. That Section 1 of an Act entitled "An Act to provide that the proceeds of the excise tax levied by Schedule 138.1 of Section 348 of Chapter 1 of Article XIII of an Act entitled 'An Act to provide for the general revenues of the State of Alabama,' approved July 10, 1935, commonly known as the lubricating oil tax, shall, when collected, be covered into the State Treasury to the credit of the State Highway Patrol Fund, and to repeal all laws and parts of laws, general, special or local, in conflict herewith," approved March 17, 1939, be and the same is hereby amended to read as follows: Section 1. That the proceeds, less the cost of collection, of the excise tax levied by Schedule 138.1 of Section 348 of Chapter 1 of Article XIII of an Act entitled "An Act to provide for the general revenues of the State of Alabama," approved July 10, 1935, commonly known as the lubricating oil tax, shall, when collected, be covered into the State Treasury and credited as follows: \$50,000 annually to the State Planning Commission, and the remainder to the State Highway Patrol Fund. Out of the monthly proceeds of said tax, the State Comptroller shall each month credit one-fourth of such proceeds to the State Planning Commission until a total of \$50,000 has been so credited, and shall each month credit the remaining three-fourths of such proceeds to the State Highway Patrol Fund. Provided, further, that if the one-fourth of the proceeds in the last month of the fiscal year, when added to the amounts already credited to the State Planning Commission, are insufficient to make the total amount so credited to it during the fiscal year amount to \$50,000, then the State Comptroller shall credit to the State Planning Commission out of the proceeds for said month such an amount as is necessary to make the total amount credited to it during the fiscal year \$50,000. Provided, however, that the funds herein appropriated to the State Planning Commission may be expended only upon the approval of the Governor, and at the end of any fiscal year any unexpended balance of such funds shall be covered into the State Treasury to the credit of the State Highway Patrol Fund.

Section 2. All laws and parts of laws, general, special or local, in conflict with the provisions of this Act be and the same are hereby expressly repealed.

Section 3. That this Act shall become effective on October 1, 1939.

Approved September 13, 1939.

No. 387)

(H. 668—Smyer

AN ACT

To amend section 4549 of the 1923 Code of Alabama, so as to permit indictments to be recorded by means of a photograph or photostat machine.

Be it Enacted by the Legislature of Alabama:

That section 4549 of the 1923 Code of Alabama be and the same is hereby amended to read as follows: Secret records of indictment made and kept by clerk; uses of.—The clerk of the court in which indictments are returned, shall, forthwith and without allowing them to be taken out of his custody or control, record the same, with the indorsement thereon, in a well-bound book, which shall be properly indexed and kept secret, as indictments are required to be kept secret, before the arrest of the defendant; and if the office of the clerk is furnished with an iron safe or vault, it shall be kept therein; but the court may require the production of such book on the trial of the defendant for comparison of the indictment against such defendant with the record thereof only in cases where the trial is had on a certified copy of the indictment as provided by law. The indictments may be recorded by means of a photograph or photostat machine.

Approved September 15, 1939.

No. 388)

(H. 669—Smyer

AN ACT

To amend Section 6507 of the 1923 Code of Alabama, so as to permit photostating of papers in certain counties.

Be it Enacted by the Legislature of Alabama:

That Section 6507 of the 1923 Code of Alabama be and same is hereby amended to read as follows: It is the duty of the register within his respective county—1. To administer oaths in all cases, and to issue all process from circuit courts as to equity or chancery matters; to make orders of publication for defendants; to grant

decrees pro confesso for the want of answers; to hear exceptions to bills, answers and reports; to issue attachments and process of sequestration; to perform the duties of master, unless otherwise ordered by the circuit judge; and to make all interlocutory decrees and orders, not affecting the decision of the controversy between the parties, subject at all times to the control, direction and supervision of the circuit judge. 2. To keep a docket, in which must be entered the names of plaintiffs and defendants, the names of the solicitors of the several parties, a minute of the time when process issued and was returned; the return thereon, and a note of all the orders and proceedings. 3. To keep an execution docket, as required of clerks of the circuit court; and in such docket, as well as on the execution, to enter the name of the solicitor of the party entitled to the execution. 4. To keep a subpoena docket, in which must be entered the cases in which subpoenas for witnesses examined orally in open court, or before him on references, or otherwise, are issued, the names of the witnesses, the time of the issue, and the return of the sheriff. 5. To keep a commission docket, in which shall be entered the date of filing interrogatories, direct, cross, and rebutting, the names of the witnesses for the examination of whom the commission issues, for what party the witnesses are examined, the date of the issue and return of the commission, the names of the commissioners, the residence of witnesses and commissioners, and the fees for copying interrogatories, issuing notices and commissions, and the fees of the witnesses and commissioners. 6. To enter in well-bound books, all orders and interlocutory decrees made by him, and all decrees and orders made by the circuit judge, in equity and chancery matters. 7. To record, in well-bound books, within six months after the final determination of any cause, all the proceedings in relation to the same, except those previously recorded under section 10129 (5736), and except as otherwise provided by this Code or ordered by the circuit judge. 8. To issue, within five days after the order or decree is filed, all process necessary for the enforcement of any order or decree made during the term. 9. To keep all papers, books, dockets, and records belonging to his office with care and security; the papers filed, arranged, numbered and labeled so as to be of easy reference; the books, dockets and records properly labeled; and to allow parties to inspect the same free of charge. 10. On application, and the payment of the legal fees therefor, to make out and deliver to any person a correct transcript, properly certified, of any paper or record in his office. 11. To give the plaintiff, his agent, or solicitor, if resident in the county, personal notice of the collection of money within ten days thereafter; if not resident in the county, and he knows the residence of either of them, he must send such notice by mail. 12. To administer oaths and take affidavits in all cases in which

the authority to administer such oath or take such affidavit is not confined to some other officer. 13. To perform such other duties as are or may be required of him by law. 14. To appoint guardians ad litem for infants or persons non compos mentis in term time or in vacation. 15. To notify the governor that the circuit judge of the court will not attend or hold the next term, and if such fact is not ascertained for more than three days before the beginning of such term, he shall notify the governor of such fact by telegram. 16. Within five days after the first of July and the twenty-fifth of December of each year, the register of each circuit court or court of like jurisdiction shall make out and certify report showing the number of cases disposed of during the term and the number remaining upon the docket, and send a copy thereof to the chief justice. For any failure of the register to perform any of the duties prescribed by this sub-division, he shall forfeit one hundred dollars to the state to be recovered on motion of the solicitor of any court of record of the county of such register, in the court of which he is solicitor in the name of the state; such register to have three days' notice of such motion. In the circuit court in counties having a population of 400,000 or more according to the last or any subsequent Federal census, the documents required to be entered and recorded under the provisions of this section or any other provision of law, may be entered and recorded by means of a photograph or photostat machine; and such documents need not be entered and recorded in separate classes or separate series of books but all of said documents may be entered and recorded in the same class or same series of books. In particular, and without limiting or restricting the comprehensiveness of the foregoing provisions, in such counties it shall not be necessary that the register shall keep both a class or series of record books of the kind commonly designated as "Minute Books" and another class or series of record books of the kind commonly designated as "Final Record Books"; but the register may enter and record in a single class or series of record books all documents required to be entered and recorded. In such counties it shall not be necessary that the documents in a particular case shall be entered and recorded in assembled or collected fashion; that is to say, it shall not be necessary that the documents in a particular case be entered and recorded upon pages in continuous numerical sequence; and on the contrary, it shall be a sufficient compliance with the laws requiring entering and recording of documents that the documents are anywhere entered and recorded in the record books. When in such counties, the entry or record of documents in a particular case is not kept in assembled or collected fashion the register shall note on the appropriate docket, and also on the original document, the book number and page number where each particular document is recorded; and

shall upon the filling up of any record book, place a list in the front of the book showing in numerical order the docket numbers of each and every case whose documents have been entered and recorded in the book and showing alongside the docket numbers respectively the page or pages in the book where documents in a particular case are entered and recorded.

Approved September 15, 1939.

No. 389)

(H. 670—Smyer

AN ACT

To amend Section 6724 of the 1923 Code of Alabama, so as to permit photostating of papers in certain counties.

Be it Enacted by the Legislature of Alabama: That section 6724 of the 1923 Code of Alabama be and the same is hereby amended to read as follows: Their duties.—It is the duty of the clerk of the circuit court—1. To sign and issue all summons, subpoenas, writs, executions, and other processes, under the authority of the court. 2. To keep an appearance docket of civil cases, in which must be entered all the civil actions brought to each term, the names of the parties, the character of action, the names of the attorneys by whom the same are brought, and the sheriff's return. 3. To keep a trial docket of civil cases, in which must be entered all the civil cases standing for trial at each term, in the order in which they are brought, the names of the attorneys employed, the character of the action, and the orders which have been made in each cause at any previous term. 4. To keep a trial docket of criminal cases, in which must be entered all the criminal cases in their order, the character of the offense, the return of the sheriff, the orders which have been made in each case at any previous term, and the names of the attorneys for the defense. 5. To keep a motion docket for entering all motions intended to be submitted to the court. 6. To keep separate subpoena dockets for civil and criminal cases, in which must be entered the cases in which any subpoenas are issued, the name of the witnesses, the time of the issue and the return of the Sheriff. 7. To keep an execution docket, in which must be entered every execution issued, specifying the names of the parties, the amount of the judgment, and the day and year of its rendition, the amount of costs, the character of the execution, the date of its issue, the person to whom delivered and the date of such delivery, the day when returned, the return in full on the same page on which the execution is entered, and the number of the execution. 8. To keep a book, in which must be entered the minutes of each day's proceedings during the term of the court, and the orders and judgments, in the order in which they are made or rendered. 9. To

record in well-bound books within six months after the final determination of any suit or prosecution, all the proceedings relating thereto, not previously recorded under section 10129 (5736), except the subpoenas, affidavits for continuance, commissions to take testimony, evidence and executions. 10. To enter on the fee book, execution docket, and on the execution, the name of the attorney for the plaintiff in the judgment. 11. To keep and file the books and dockets and papers in relation to, and the records of all suits which have been determined in the county court, and deposited with them, as they are required to keep and file the books, dockets, papers, and records of suits in the circuit court; and to issue all writs of execution, scire facias, writs of error, or other process on the judgments of such court, returnable as if such suits had been determined in the circuit court. 12. To keep all the papers, books, dockets and records belonging to their office, with care and security; the papers filed, arranged, numbered and labeled, so as to be of easy reference; and the books, dockets, and records, properly lettered; and to allow parties to inspect the records free of charge. 13. To attend court during the sessions thereof, with all the papers belonging to the term, so filed as to be of easy reference; to keep in the court house during such session; convenient of access, the execution dockets for the two preceding terms; and to administer all oaths, and take all affidavits in relation to causes or proceedings pending therein. 14. To make out and deliver, on application and payment of the legal fees therefor, to any person applying for the same, a correct transcript, properly certified, of any paper or record in their offices. 15. To make out transcripts, as required by law, in all cases of appeal to the supreme court or court of appeals. 16. To render to the county treasurer, court of county commissioners, or board of revenue, within thirty days after each term of the court, a statement in writing and under oath, of the fines assessed and forfeitures obtained during such term, the amount of each, and against whom each was assessed or obtained, and also what money they have received for the county, specifying from whom, on what account, and the amount in each case; and, after deducting from such amount five per cent for their compensation, they must pay the balance to whomsoever is custodian of the county funds. 17. To keep direct and reverse indexes of all record books in their offices, which must always be in good and substantial, well-bound books; but they are not required to prepare any new indexes where those already in the office are sufficient. 18. To certify to the governor, the number of civil and criminal cases remaining on the docket of their courts within twenty days after the adjournment of any special or regular term of the court. 19. To notify the chief justice that the judge of the court will not attend or hold the next session, and if such fact is not ascertained for more than three days before the beginning of such

session, they shall notify the chief justice of the fact by telegram. 20. To perform such other duties as are, or may be, required of them by law. In the circuit court in counties having a population of 400,000 or more according to the last or any subsequent Federal census, the documents required to be recorded under this section may be recorded by means of a photograph or photostat machine. In such counties it shall not be necessary that the documents in a particular case shall be recorded in assembled or collected fashion; that is to say, it shall not be necessary that the documents in a particular case be recorded upon pages in continuous numerical sequence; and, on the contrary, it shall be a sufficient compliance with the provisions of this section and/or any other provision of law requiring recordation, that the documents are anywhere recorded in the record books. When in such counties, the record of documents in a particular case is not kept in assembled or collected fashion, the clerk shall note on the trial docket, or other appropriate docket, and also on the original document recorded, the book number and page number where each particular document is recorded; and shall upon the filling up of any record book place a list in the front of the book showing in numerical order the docket numbers of each and every case whose documents have been recorded in the book, and showing alongside the docket numbers respectively the page or pages in the book where the documents in a particularly numbered case are recorded.

Approved September 15, 1939.

No. 390)

(H. 671—Smyer

AN ACT

To amend Section 10129 of the 1923 Code of Alabama, so as to permit photostating of papers in certain counties.

Be it Enacted by the Legislature of Alabama:

That Section 10129 of the 1923 Code of Alabama be and the same is hereby amended to read as follows: Papers to be recorded on filing.—The original pleading in civil suits, at law or in equity, the original process issued thereon, all affidavits and bonds taken in the course thereof, must be recorded immediately after the filing thereof, or after the return of such process; and the costs of such record are taxable as part of the costs of the cause. If the original pleading, or process, or affidavit, or bond, should be lost, a copy of such record duly certified, shall stand in the place, and have the force and effect of the original. The original pleading, or the affidavit, or bond, must not be taken from the office of the clerk or register until after the record thereof, and such record forms part

of the final record of the cause. In the circuit court in counties having a population of 400,000 or more according to the last or any subsequent Federal census, the documents required to be recorded under this section may be recorded by means of a photograph or photostat machine. In such counties it shall not be necessary that the documents in a particular case shall be recorded in assembled or collected fashion; that is to say, it shall not be necessary that the documents in a particular case shall be recorded upon pages in continuous numerical sequence; and, on the contrary, it shall be a sufficient compliance with the law requiring recording that the documents are anywhere recorded in the record books. When in such counties, the record of documents in a particular case is not kept in assembled or collected fashion, the clerk or register shall note on the trial docket or other appropriate docket, and also on the original document recorded, the book number and page number where each particular document is recorded; and shall upon the filling up of any record book place a list in the front of the book showing in numerical order the docket numbers of each and every case whose documents have been recorded in the book, and showing alongside the docket numbers respectively the page or pages in the book where the documents in a particular case are recorded.

Approved September 15, 1939.

No. 391)

(H. 691—Norman of Bullock

AN ACT

To amend Schedule 133 of Section 348, of Article XIII, of "An Act to provide for the general revenue of the State of Alabama," Approved July 10, 1935.

Be it Enacted by the Legislature of Alabama:

Section 1. That Schedule 133, of Section 348, of Article XIII, of "An Act to provide for the general revenue of the State of Alabama," approved July 10th, 1935, be amended to read as follows: "Schedule 133. (a) Each person operating or conducting an exhibition termed "Street Fair" or "Carnival" shall pay to the State a license as follows: For an exhibition operating or composed of or controlling or embracing not more than ten exhibitions or devices three hundred (\$300.00); but where more than ten and not exceeding twenty-five (25) devices, four hundred dollars (\$400.00); and where there are more than twenty five devices, seven hundred and fifty dollars (\$750.00); for each place where said street fair is conducted. This license shall entitle the street fair to be operated for a period of not exceeding two weeks in any one place at any

one time. (b) State, County, or District Agricultural Fairs. State, County or District Agricultural Fairs, as defined herein, operating without any midway, carnival or vending concessions shall be exempt from the payment of all state and county licenses or privilege taxes. (c) State, County or District Agricultural Fairs operating with midway, carnival or vending concessions, shall pay to the State a license as follows: In counties of over 150,000 population \$400.00. In counties of more than 75,000 and less than 150,000 population \$250.00. In counties of less than 75,000 population \$100.00. In addition to the above State licenses, there shall be paid for the use of the county in which such State, County or District Agricultural Fair operates, a sum equal to fifty per cent of the State license, The license tax herein levied shall be in lieu of all other State and County licenses or privilege taxes, except the Sales Tax and shall extend not only to said State, County or District Fairs in any of the lawful operations carried on in the conduct of such Fairs, but shall also extend to any person, firm or corporation, who, under contract with a State, County or District Fair, during the continuation of such Fair, and on the grounds thereof carries on any lawful business. The above license shall entitle such State, County or District Agricultural Fair to operate for a period of not exceeding two weeks in any one place at one time. On and after the first day of January, 1940, a State, County, or District Agricultural Fair, in order to obtain a license under this schedule, shall be defined as follows: A corporation or association composed of ten or more persons, which shall have been organized at least six months prior to the holding of the Fair, and which holds an annual fair and at which not less than twenty exhibits of agricultural, livestock or mineral products are shown and upon which prizes are offered.

Section 2. This act shall go into effect upon its approval by the Governor.

Approved September 13, 1939.

No. 393)

(H. 717—Brown of Lee

AN ACT

To Amend Section 522 of The Alabama School Code adopted By An Act Of The Legislature Of Alabama Approved August 27, 1927, As Amended By An Act Of The Legislature Of Alabama Approved July 18, 1931.

Be it Enacted by the Legislature of Alabama:

That Section 522 of the Alabama School Code, adopted by an Act of the Legislature of Alabama, approved August 27, 1927, as amended by an Act of the Legislature of Alabama Approved July 18, 1931, be and the same is hereby amended so as to read as fol-

lows: 522. CORPORATE POWERS OF THE INSTITUTE. Such corporation shall have all the rights, privileges and franchises necessary to a promotion of the end of its creation, and shall be charged with all corresponding duties, liabilities and responsibilities. Such corporation may hold, and may lease, sell, or in any other manner not inconsistent with the object or terms of the grant or grants under which it holds, dispose of any property, real or personal, or any estate or interest therein, remaining of the original or any subsequent grant by Congress, or by this State, or by any person, or accruing to the Corporation from any source, as to it may seem best for the purposes of its institution, and any and all sales of property, real or personal, heretofore made pursuant to and by authority of action of the Board of Trustees of said Institute and written instruments of conveyance of title thereto purporting to have been made pursuant to such action are hereby ratified and confirmed as acts of the Institute and similar sales and instruments of conveyance made during the time when the name of the Institute was Agricultural and Mechanical College of Alabama are likewise ratified and confirmed as acts of said Agricultural and Mechanical College of Alabama.

Approved September 15, 1939.

No. 396)

(H. 779—McGowin

AN ACT

To amend Section 346.5 of Chapter I of Article XII of Act No. 194 of the Regular Session of the Legislature of Alabama of 1935, entitled, "An Act to provide for the general revenue of the State of Alabama," and approved July 10, 1935.

Be it Enacted by the Legislature of Alabama:

Section 1. That Section 346.5 of Chapter I of Article XII of Act. 194 of the Regular Session of the Legislature of Alabama of 1935, entitled, "An act to provide for the general revenue of the State of Alabama," and approved July 10, 1935, be, and said Section 346.5 hereby is, amended so as to read as follows: Section 346.5. PAYMENT AND DISTRIBUTION OF THE TAX. The remittance of the excise tax herein required shall be made to the State Tax Commission at Montgomery, Alabama, with checks payable to the State Treasurer of Alabama. The proceeds of the excise tax herein imposed by this article shall be, without delay, covered into the State Treasury to the credit of the Financial Institution Excise Tax Fund. All expenses incurred by the State Tax Commission in the administration of this Article shall be paid out of the money collected under the provisions hereof. The amount remaining in said Financial Institution Excise Tax Fund, after all ex-

penses incurred in the administration of this article have been paid, shall, on the first day of September, 1936, and on the first day of September in each year thereafter be distributed as follows: On certificate of the State Tax Commission the State Comptroller shall draw his warrant on the State Treasurer payable to the County Treasurer of each of the several counties in which such financial institutions are located, for an amount equal to one-fourth of the tax received from the institutions located in such county, after deducting the proportionate part of the expenses incurred in the administration of this Article. On similar certificate the State Comptroller shall draw his warrant on the State Treasurer in favor of the Treasurer of each of the several municipalities in which such financial institutions are located for an amount equal to one-half of the tax received from the institutions located in such municipalities, after deducting the proportionate part of the expenses incurred in the administration of this article. The amount remaining in such Financial Institution Excise Tax Fund, after the payment of the expenses as heretofore in this article provided, and after the distribution to the counties and municipalities of their proportionate part of the said tax, shall be covered into the General Fund of the State of Alabama. Any financial institution which conducts its business in more than one municipality or in more than one county in this State shall in making the return required by this article report in detail the percentage of its total business in the State conducted in each such municipality and in each such county and the portions of tax paid by each such financial institution due to be distributed to the municipality and county shall be distributed pro-rata according to the percentages so reported to the several municipalities and counties where such business is conducted instead of solely to the one where the principal place of business of such financial institution is located in this State. No municipality or county within the State shall have the right to levy or assess any such excise tax for the privilege of engaging in such business in addition to that hereby levied and to be distributed to it as herein provided, except license taxes not in excess of those heretofore legally levied and in effect.

Approved September 13, 1939.

No. 397)

(H. 780—McGowin

AN ACT

To amend Schedule 158.19 of Chapter 6 of Article XIII of Act No. 194 of the Regular Session of the Legislature of Alabama of 1935, entitled, "An Act to provide for the general revenue of the State of Alabama," and approved July 10, 1935.

Be it Enacted by the Legislature of Alabama:

Section 1. That Schedule 158.19 of Chapter 6 of Article XIII of Act No. 194 of the Regular Session of the Legislature of Alabama of 1935, entitled, "An Act to provide for the general revenue of the State of Alabama," and approved July 10, 1935, be, and said Schedule 158.19 hereby is, amended so as to read as follows: Schedule 158.19. The money collected as motor vehicle and trailer license taxes, less all the expense necessary for the purchase and delivery of the motor vehicle tags required by this Act, the purchase and delivery of the blank receipts, license blanks and other printing necessary in the licensing and taxing of motor vehicles, and the salary of officers or employees engaged in such department, together with all other necessary expenses for the enforcement of this Act, shall be distributed as follows: Seventy per cent (70%) to the State and thirty per cent (30%) to the incorporated city or town in which the owner of the motor vehicle resides. All amounts of motor vehicle and trailer license taxes received by a city or town hereunder in excess of twenty per cent (20%) of such motor vehicle and trailer license taxes shall be used exclusively for the construction, improvement and maintenance of highways or streets and administrative expenses in connection therewith, including the retirement of bonds for the payment of which such revenues may have been pledged, and for no other purposes. If the owner of a motor vehicle does not reside in an incorporated city or town, then eighty per cent (80%) shall go to the State and twenty per cent (20%) to the county in which the owner of the motor vehicle resides. The money collected as motor vehicle license taxes by the State, less salaries and expenses, shall be used exclusively to create a sinking fund for the prompt and faithful payments of the principal and interest on good road bonds and for construction, maintenance and as required under provisions of Article XX of the Constitution of Alabama.

Section 2. That this act shall become effective upon its passage.

Approved September 13, 1939.

No. 398)

AN ACT

(H. 827—Merrill

To amend an Act entitled "An Act to Amend Schedule 154 of Article XIII, Chapter 1, of Section 348 of an Act approved July 10, 1935, entitled 'An Act to Provide for the General Revenue of the State of Alabama,'" approved February 2, 1937.

Be it Enacted by the Legislature of Alabama:

Section 1. That an Act entitled "An Act to Amend Schedule 154 of Article XIII, Chapter 1, of Section 348 of an Act approved

July 10, 1935 entitled 'An Act to provide for the General Revenue of the State of Alabama,' approved February 2, 1937, be and the same hereby is amended so as to read as follows: "Schedule 154. For each machine for vending gum, candy, cigarettes, milk, soft drinks, or other articles, or on which a person is weighed, or on which music is played: Where a machine is operated by pennies, \$1.00; where a machine is operated by nickel or coins of larger denominations, \$8.00. Provided that nothing in this schedule shall apply to machines installed by any person, firm or corporation, nor to coin-operated gas meters, nor to coin-operated telephones, nor to machine vending postage stamps in its place of business vending necessary articles on a non-profit basis for emergency use only by the employees of such person, firm or corporation. Provided that no license shall be required under this schedule where a privilege or dealer's license is required by this Act for the sale of such articles and such privilege license shall have been obtained by the person, firm or corporation operating the place of business where such machine is located, or the owner of such vending machine shall have secured such privilege license as required herein. Provided, further, that no license for vending machines, vending merchandise in industrial plants or on private property for use of employees, or machines on which persons are weighed, shall be required, if in lieu thereof, the person, firm or corporation engaged in the business of operating such machines shall have applied for and obtained an occupational license and shall have paid therefor, as follows: In counties of 60,000 inhabitants or less . . . \$30.00 In counties of 60,001 and not exceeding 125,000 inhabitants . . . \$60.00 In counties of 125,001 inhabitants and over . . . \$80.00. Provided further that no municipality shall be allowed to levy and collect a license for the operation of vending machines enumerated and defined in this schedule in an amount greater than fifty per cent of that levied by the State. Any person operating or permitting the operation of a vending machine dispensing packages or in quantities less than a package of cigarettes, or any article on which there is an excise tax the payment of which is evidenced by stamps, without first having paid the tax thereon by affixing the required stamps to the original package as required under Schedule 159, shall be guilty of a misdemeanor and punished as provided in such schedule for failure to pay said tax. Each vending machine vending tobacco products of any kind whatsoever shall have securely affixed thereto in full view the name and address of the legal owner of said machine. The privilege license required by law or the vending machine license issued to cover vending machines shall be securely affixed in full view to each such vending machine before said machine is placed in operation or use. Provided that when tobacco products of any kind whatsoever are found in such vending

machines to be improperly stamped or unstamped, in violation of Schedule 159 of this Act, such vending machine and contents shall be confiscated by any duly authorized agent of the State Department of Revenue as provided in Schedule 159 for the confiscation of improperly stamped or unstamped tobacco products. Each vending machine vending tobacco products of any kind whatsoever shall have a transparent front window, or windows, through which the Alabama revenue stamps required by Schedule 159 of this Act may be seen without the necessity of opening or unlocking the vending machine. Provided further that for the purpose of any excise or consumption taxes the payment of which is not evidenced by stamps, levied on any of the articles dispensed through such machine, the person in whose place of business such machine is located shall be considered the consumer of such articles and shall be liable for such taxes measured by the regular retail price thereof."

Section 2. Any schedule of this Act or any provision of law in conflict with the provisions of this schedule are hereby repealed.

Section 3. This Act shall be effective immediately upon its passage.

Approved September 13, 1939.

No. 399)

(H. 829—Snyder

AN ACT

To amend Section 345.28 of an Act entitled "An Act to provide for the General Revenue of the State of Alabama," approved July 10, 1935.

Be it Enacted by the Legislature of Alabama:

Section 1. That Section 345.28 of an Act entitled, "An Act to provide for the General Revenue of the State of Alabama," approved July 10, 1935, be and the same is hereby amended to read as follows: Section 345.28. DEDUCTIONS ALLOWED. (CORPORATIONS). In computing the net income of domestic corporations doing business in this State subject to the tax imposed by Section 345.24 of this Article, there shall be allowed as deductions: (1) All ordinary and necessary expenses paid or incurred during the taxable year in carrying on any trade or business including a reasonable allowance for salaries and other compensation for personal services actually rendered, and including rentals or other payments required to be made as a condition to the continued use of possession of property to which the corporation has not taken or not taking title, or in which it has no equity. (2) All interests paid or accrued within the taxable year on its indebtedness, except on indebtedness incurred or continued to purchase or carry obligations or securities (other than obligations of the United

States issued after September 24, 1917), the interest upon which is wholly exempt from taxation under this Article as income to the taxpayer or in the case of a foreign corporation, the proportion of such interest which the amount of its gross income from sources within the State of Alabama bears to the amount of its gross income from all sources within and without the State of Alabama.

(3) Taxes paid or accrued within the taxable year (a) imposed by the authority of the United States, or (b) by the authority of any of its possessions; (c) by the authority of any State or territory, or any county, school district, municipality, or other taxing subdivision of any State or territory not including income tax and not including those assessed for local benefits of a kind tending to increase the value of the property assessed but excluding the income taxes levied and imposed under this Article; or in the case of a non-resident individual of foreign corporation taxes paid or accrued within the taxable year imposed by the authority of the State of Alabama or any county school district, municipality or any other taxing subdivision of the State of Alabama excluding the income taxes levied and imposed under this Article, plus the proportion of tax imposed by other authorities above mentioned which the amount of gross income from sources within the State of Alabama bears to the amount of gross income from all sources within and without the State of Alabama; provided, however, that the amount of Federal income tax allocated to Alabama may be determined by the ratio that the amount of net income on business done within Alabama bears to the amount of net income from business done within and without the State of Alabama.

(4) Losses sustained during the taxable year and not compensated for by insurance or otherwise.

(5) Losses from debts ascertained to be worthless and charged off during the taxable year of such ascertainment, if sustained in the conduct of the regular trade or business of the taxpayer during the period covered by an Alabama Tax Law.

(6) The amounts received as dividends from a corporation, or any subsidiary corporation of which the parent corporation owns as much as fifty percent of the capital stock, which is taxable under this Article upon the net income of the parent corporation or the subsidiary.

(7) A reasonable allowance for the exhaustion, wear and tear of property used in the trade, or business, including a reasonable allowance for obsolescence.

(8) In the case of mines, oil and gas wells, other natural deposits, and timber, a reasonable allowance for depletion and for depreciation of improvements, according to the peculiar conditions in each case, based upon the cost, including cost of development not otherwise deducted, such reasonable allowance in all cases to be made under rules and regulations to be prescribed by the State Tax Commission. In the case of leases the deductions allowed by this paragraph shall be equitably apportioned between the lessor and the lessee.

(9) In the case of

marine insurance companies, there shall be allowed, in addition to the deductions allowed in Paragraphs 1 to 9 inclusive, amounts repaid to policy holders on account of premiums previously paid by them, and interest paid on such amounts between the ascertainment and the payment thereof. (10) In the case of mutual insurance companies (other than mutual life or mutual Marine insurance companies) requiring their members to make premium deposits to provide for losses and expenses, there shall be allowed, in addition to the deductions allowed in Paragraphs 1 to 9 inclusive (unless otherwise allowed under such paragraph) the amount of premium deposits returned to their policy holders and the amount of premium deposits retained for the payment of losses, expenses and re-insurance reserves. (11) Contributions or gifts made within the taxable year to recognized religious, charitable and scientific or educational institutions, or institutions for the prevention of cruelty to children or animals which are not operated for profit, and no part of the net earnings of which inures to the benefit of any private stockholder or individual, or contributions to the special fund for vocational rehabilitation authorized by Section 7 of the United States Vocational Rehabilitation Act, the amount of such deduction not to be, however, in excess of five percentum of the taxpayer's net income as computed without the benefit of this subsection. Such contributions or gifts shall be allowable as deductions only where made to institutions recognized as institutions for the above purposes under rules and regulations prescribed by the State Tax Commission. (12) In the case of foreign corporations doing business in this State the deductions allowed by this Section shall only be allowed if and to the extent that they are connected with income arising from sources within the State of Alabama, and the proper apportionment and allocation of deductions with respect to the sources of income within and without the State of Alabama shall be determined under the rules and regulations prescribed by the State Tax Commission; provided, that in the case of corporations doing a business partly within and partly without the State where revenue is apportioned or allocated to Alabama the expense in connection with such apportioned or allocated revenue shall be likewise apportioned or allocated to the State, for the purpose of deductions under this Article, or the ratio that company expenses in Alabama bear to the company revenues in Alabama.

Approved September 13, 1939.

No. 400)

(H. 868—Smyer

AN ACT

To authorize County Boards of Equalization or other like boards or agencies with final authority to fix the value of property for the purposes of taxation in counties having a population of 200,000 or more, according to the last or any subsequent Federal census, to provide for the inventory and appraisal of all taxable property in such counties, except that subject to assessment by the State Department of Revenue; to provide for the payment of the cost and expenses of such inventories and the proration thereof as between the State, such counties, and the municipalities and the boards of education in such counties; to abolish all boards of inventory in said counties, and to transfer all books, records, files, and equipment of said boards, to the County Board of Equalization.

Be it Enacted by the Legislature of Alabama:—

Section 1—That the County Boards of Equalization, or other like boards or agencies with final authority to fix the value of property for the purposes of taxation, in all counties of the State having a population of 200,000 or more, according to the last or any subsequent Federal census, shall have the power and authority, from time to time, subject to the approval of the governing body of any such county, to provide for the inventory and appraisal of all taxable property of such counties, except that subject to assessment by the State Department of Revenue, as a basis for the final appraisal, valuation and equalization of the assessments of property in such counties.

Section 2—That the county commission, or other like governing body of all such counties shall have the power and authority to provide for the payment of the cost and expenses of such inventories, and to pro rate such cost and expenses between the County, the State, each municipality, the County Board of Education, and each City Board of Education in the County, such proration to be approximately in the proportion that the revenue received by the state, the County, such municipalities and such boards of education, respectively, bears to the total amount of ad valorem taxes collected in the county. When the Board of Equalization or like boards or agencies, with final authority to fix the value of property for the purposes of taxation of any such county shall provide for the taking of any such inventory and appraisal, the Commissioner of Revenue of the State, subject to the approval of the Governor, shall have the authority to pay the State's pro rata thereof, and each municipality and each board of education in such county shall have authority to pay its prorata of said cost and expenses, and the county governing body shall have authority to provide for the payment of the County's pro rata thereof; provided, however, that the failure of either the State or any of said municipalities or boards of education to provide for the payment of their prorata portion of said cost and expenses shall not prevent the

county, or any of the other governmental bodies or agencies mentioned herein continuing such inventory and appraisal and paying the entire cost thereof, upon such terms as may be agreed upon between the county and such other governmental bodies or agencies.

Section 3. The cost and expenses of any inventory taken under the provisions of this act shall be paid monthly on the first day of each month as the inventory is being taken, and the State and all other governmental subdivisions and agencies contributing to the payment of the cost and expenses of the same shall be required to pay their pro rata portion of such cost and expenses into the county treasury monthly upon requisition by the presiding officer of the county commission or other like governing body, accompanied by an itemized statement showing the amount due by the particular governmental unit, subdivision or agency. The Commissioner of Revenue of the State shall have authority, subject to the approval of the Governor, to draw his warrant monthly on the State Treasurer, payable to the Treasurer of any such county, in payment of the State's prorata of the cost and expenses of any inventory or appraisal and there is hereby appropriated such amount necessary for the payment of said expense out of the General Fund of the State not otherwise appropriated.

Section 4. Any inventory or appraisal of property taken or made under the provisions of this Act shall be under the supervision and control of the County Board of Equalization or such other like board or agency vested with the final authority to inspect, review, revise, and fix the value of property for the purpose of taxation. All appraisers, clerks or other employees employed for the purpose of making an inventory or appraisal under the provisions of this act shall be selected under and governed by the provisions of any county-wide civil service law now or hereafter in effect in any such county. The governing body of any such county shall at all times have the right to determine the number of employees that shall be engaged in the making of any inventory or appraisal under the authority of this act and may increase or reduce the number of said employees at any time.

Section 5. All Inventory Boards and boards of like authority now existing in said counties are hereby abolished and all books, records, files and equipment of said Inventory Boards are hereby transferred to the County Board of Equalization in said County.

Section 6. All laws, or parts of laws in conflict with the provisions of this Act are hereby repealed.

Section 7. This act shall take effect immediately upon its approval by the Governor.

Approved September 15, 1939.

No. 401)

(H. 886—McGowin

AN ACT

To provide for the disposition and use of the profits of the State Liquor Stores operated under the Alabama Beverage Control Act.

Be it Enacted by the Legislature of Alabama:

Section 1. The net profits derived from the proceeds of the State Liquor Stores in each calendar year after the year 1939 under the provisions of the Alabama Beverage Control Act, up to and including two million dollars, shall be paid out semi-annually and applied as follows: Fifty per cent shall be covered into the General Fund of the Treasury of the State; ten per cent shall be covered into the Treasury of the State to be used and the same is hereby appropriated exclusively for Old Age Pensions, and for other purposes of the State Department of Public Welfare. Ten per cent shall be covered into the Treasury of the State to the credit of the sixty-seven counties of the State and shall be divided equally among each of said counties, and shall be paid to them and shall be covered by them into their respective general funds; ten per cent shall be paid into the Treasury of the State to the credit of the sixty-seven counties of the State, and shall be divided equally among each of said counties and shall be paid to them to be used by them exclusively for the purposes of Public Health, Old Age Pensions, and for the other purposes of the County Departments of Public Welfare; twenty per cent of the net profits of each Liquor Store to be paid to the municipality in which such State Store is located.

Section 2. If the net profits derived from the proceeds of the State Liquor Stores in any such calendar year under the provisions of said Alabama Beverage Control Act shall exceed the sum of two million dollars, such excess, up to and including two hundred thousand dollars, shall be apportioned among, and paid to, the several heretofore incorporated cities and towns in the state semi-annually on the basis of the ratio of the population of each such city or town to the total population of all cities and towns, according to the last federal census, and any remainder of such excess shall be covered into the General Fund of the Treasury of the State. Payments of the net profits of the first half of such calendar year shall be made to the above mentioned beneficiaries upon the basis of an estimate that the net profits of the last half of such year will equal the net profits of the first half thereof, and adjustments shall be made at the end of such year to correct any error in such estimate. Payments shall then be made to said beneficiaries after the end of such year according to such corrections for the year.

Section 3. Payments to each of the several counties and in-

corporated cities and towns, as hereinabove prescribed, shall be made by warrant of the State Comptroller.

Section 4. That this act shall become effective upon its passage and approval by the Governor or otherwise becoming law.

Section 5. All laws or parts of laws in conflict with this act are hereby expressly repealed.

Approved September 15, 1939.

No. 402)

(H. 887—Gwin

AN ACT

To amend Schedule 158.15 of Article 13 of Chapter 6 of an Act entitled "An Act to provide for the general revenue of the State of Alabama," approved July 10, 1935.

Be it Enacted by the Legislature of Alabama:

Section 1. Schedule 158.15 of Article 13 Chapter 6 of an Act entitled "An Act to provide for the general revenue of the State of Alabama" be and the same is hereby amended to read as follows: Schedule 158.15. The provisions of the foregoing sections relative to registration and display of registration numbers shall not apply to a motor vehicle owned by a non-resident of this State and not used for hire (or used for commercial purposes) in this State, for a period of 30 days from date of entering the State, provided that the owner thereof shall have complied with the provisions of the law of the foreign country, state, territory or Federal district of his residence relative to registration of motor vehicles and the display of registration numbers thereon, and shall conspicuously display his registration number as required thereby; Provided further that nothing herein shall be construed to permit the use of motor vehicles for hire (or for commercial purposes) by non-residents without complying with the provisions of this Act. Provided further, that motor vehicles of non-residents used for commercial purposes and making not more than two trips per month, each such trip to be of not more than five days duration, may secure permit from the probate judge of the first county in this State which he enters, under such rules as the State Department of Revenue may prescribe and upon the payment to the probate judge of a permit fee of \$1.00 and an issuance fee of 50c which permit shall grant the holder thereof two trips as above set forth during the month in which said permit is issued. Provided, that motor vehicles of non-residents used for hire and making not more than three trips during any period of three months in this state and which pay all mileage taxes required by law, may secure a permit from the State Department of Revenue under such rules as the State Department of Revenue may prescribe and upon the payment of a Five Dollar

(\$5.00) fee and an issuance fee of 50c for each trip to the probate judge; of the first county entered in this State; provided each trip shall be reported to the State Department of Revenue and said probate judge and no such motor vehicle shall make more than three trips in this State during any three month period and no such motor vehicle shall carry anything but goods to be transferred from without the State to points within the State, but such motor vehicle may, on its return trip, secure permit from a probate judge after the additional payment of Five Dollars (\$5.00) and an issuance fee of 50c, to carry goods on its return trip from points within Alabama to points without Alabama. Said permit shall be issued for a specified motor vehicle and shall not be transferable to any other person or any other vehicle. The State Department of Revenue of Alabama is hereby authorized to make reciprocal agreements with other states for an exchange of rights for the operation of motor vehicles that will be considered as a fair exchange of rights and privileges. The said rights and privileges to be in effect as long as both contracting parties recognize the rights of the other. The above reciprocal agreement can be annulled on a notice issued to either party by the other party thereto within thirty (30) days thereafter.

Approved September 13, 1939.

No. 403)

(H. 892—Hardwick

AN ACT

To Amend Schedule 158.10 of Section 348, Article XIII, Chapter 6, of an Act "To provide for the General Revenue of the State of Alabama," approved July 10, 1935.

Be it Enacted by the Legislature of Alabama:

Section 1. That Schedule 158.10 of Section 348, Article XIII, Chapter 6, of an Act "To provide for the General Revenue of the State of Alabama," approved July 10, 1935, be, and the same is hereby, amended to read as follows: "Schedule 158.10. For each motor tractor used on the highways of this State there shall be paid a license or privilege tax of one hundred dollars. Provided, however, that this license shall not be collected for a tractor when run on a highway to be transferred from one point to another for use on a farm with or without a 'small trailer' or with or without a 'semi-trailer', or when used on the highway for transferring what is commonly known as a 'portable saw mill' or a 'well-boring outfit.'"

Approved September 13, 1939.

No. 404)

(H. 893—Hardwick

AN ACT

To amend subsection (f) of Section V of an act approved February 8, 1939, entitled "An Act to further provide for the general revenue of the State of Alabama."

Be it Enacted by the Legislature of Alabama:

Section 1. That subsection (f) of Section V of an Act approved February 8, 1939, entitled "An Act to further provide for the general revenue of the State of Alabama" be and the same is hereby amended to read as follows: "(f) The gross proceeds of sales of all livestock by whomsoever sold; and also the gross proceeds of sales of poultry and other products of the farm, dairy, grove or garden, when in the original state of production, or condition of preparation for sale, when such sale or sales are made by the producer or members of his immediate family or for him by those employed by him to assist in the production thereof. Nothing herein shall be construed to exempt or exclude from the measure or computation of the tax levied, assessed or payable hereunder, the gross proceeds of sales of poultry products when not products of the farm."

Section 2. That this act shall become effective upon its passage and approval by the Governor or its otherwise becoming a law.

Approved September 13, 1939.

No. 405)

(H. 896—Austin & Dominick

AN ACT

To amend an Act of the legislature of Alabama approved March 26, 1936, entitled "An Act to amend Section 3 of Article 1 of an act entitled 'An Act to provide for the general revenue of the State of Alabama,' approved July 10, 1935."

Be it Enacted by the Legislature of Alabama:

Section 1. That an Act of the legislature of Alabama approved March 26, 1936, and entitled "An Act to amend Section 3 of Article 1 of an Act entitled 'An Act to provide for the general revenue of the State of Alabama,' approved July 10, 1935," be and the same is hereby amended to read as follows: Section 3. For the purpose of encouraging the building, extending, and operation of factories for the spinning of thread and yarns, and the knitting and weaving of cloth and other fabrics of cotton and wool, and rayon and silk, and the manufacture of garments or wearing apparel, in this State, and plants for the purpose of building and manufacturing aeroplanes or airships, and plants for the purpose of building ships,

and factories for the manufacture of bags, wood pulp products, glass factories, ceramic factories, enameling factories and silica processing industries, paper, paper bags and other pulp products, wooden cabinets, and farm implements or mining of gold and graphite, or any other manufactured products, and plants or factories for making and manufacturing condensed and evaporated milk, or either, and other milk products and plants or factories for making and manufacturing cheese and other milk products, and creameries and milk cooling stations or any other industry located within five miles of a rehabilitation colony sponsored by the Rehabilitation Administration of the Federal Government for the purpose of furnishing employment to the families thus rehabilitated, the Court of County Commissioners, or other Court or board having like jurisdiction of any County, and the constituted authorities of any city or town in which it is proposed to locate, or add to, or to extend any such factories or plants, are authorized and empowered to remit the taxes assessed for all county and municipal purposes, except for county school and school district purposes, on such factories or plants and on all extensions or additions to such factory or plant as are already built and operated, and on all plants, works, machinery and other equipment of such factories or plants, or additions thereto, or extensions thereof, and also on all of the capital stock of such factories and plants, or increase of such capital stock made for the purpose of making the additions thereto or extensions thereof for a period not exceeding ten years from the date of the incorporation or organization of such factories or plants, if incorporated and organized under the laws of the State of Alabama, or for a period not exceeding ten years from the date of being granted permission to do business in the State of Alabama, if a foreign corporation, or from the date of completion of such plant or factory, or from the date of the completion of such addition or extension thereof. Provided however, that all exemptions and remissions above provided may be granted for a period not exceeding ten years when granted to or in connection with the factories or plants, or additions thereto, or extensions thereof, for the manufacture or production of pulp, paper, paper bags and other pulp products, and plants for the purpose of building ships. Provided that the period of the foregoing exemptions shall not be extended, renewed or in any way added thereto, because of any reincorporation, or reorganization of the original corporation, or the sale of the assets to a different person, firm or corporation. Provided nothing herein shall authorize the exemption of the land on which such factories or plants are located or proposed to be located. (a) In order to obtain the benefit of the exemptions from County and City taxation above provided, a person, firm or corporation owning or controlling such factory, factories, plant or plants must make application in writing

to the Court of County Commissioners, or Court or Board of like jurisdiction of the County, and/or to the constituted authorities of the City or Town in which it is proposed to locate the same, giving the location thereof, the date of incorporation or organization of the corporation making the application, if a domestic corporation, and if a foreign corporation, giving the location thereof and the date on which such corporation was granted permission to do business in Alabama, or if not a corporation giving the date on which construction of such factory or plant was actually begun, and praying for an order to be made by them granting such person, firm or corporation the exemption provided in the preceding paragraphs of this section, which application, if granted, shall be entered on the minutes of the Court of County Commissioners, or Court or Board of like jurisdiction, and on the minutes of the city or town in which said factory or plant is located, and designating the time when such exemption shall expire, but all such property must be returned to the State for Taxation unless exempted by law therefrom. (b) The exemption granted to any factory or plant becoming entitled to its enjoyment, and as to the capital stock thereof, shall cease whenever the operation of such factory or plant for the purpose of its construction shall be abandoned. Provided that where such plant is not operated for a consecutive period of twelve months, such fact shall be prima facie evidence of such abandonment. (c) That for the purpose of developing a market for Alabama pine and other trees and the products thereof, and of encouraging the construction, extension and operation of factories and plants for the manufacture or production of pulp, paper, paper bags and other pulp products, or the mining of gold and graphite, and of encouraging the construction, extension, and operation of plants for the purpose of building ships in the State of Alabama and for the purpose of encouraging the erection and operation of glass factories, ceramic factories, enameling factories, and silica processing industries; farm implement factories and plants or factories for making or manufacturing condensed or evaporated milk and other milk products, including cheese, and creameries and milk cooling stations, or any other industry located within five miles of a rehabilitation colony sponsored by the Rehabilitation Administration of the Federal Government for the purpose of furnishing employment to the families thus rehabilitated, the State Tax Commission, or other commission or board of the State having like jurisdiction, is hereby authorized and empowered to exempt from all ad valorem taxes for State purposes, and to remit any and all such taxes which are, or may be assessed thereon, each such factory and plant, and extension thereof or additions thereto, including the works, machinery and all other equipment constituting a part of, or used in connection with, any such factory or plant, or exten-

sion thereof or addition thereto, for a period of not exceeding ten years from the date of completion of such factory or plant, or extensions thereof, or additions thereto, but in no event the land on which such plant or factory shall be located. Provided that said exemption and remission shall not apply to property which, at the time of the passage of this Act, constitutes any factory, mill or plant, already erected or constructed within the State at the time of the passage of this Act. Provided, however, that if after the passage of this act any existing factory, mill, or plant, or the owner thereof, shall erect or construct any addition, extension or betterment, or shall complete the construction of any addition, extension or betterment whensoever begun, or shall erect or construct another or additional unit, or units, whensoever begun, to such existing factory or plant, involving an expenditure, of an amount not less than \$50,000.00 within any twelve months period, in constructing and equipping such extension, betterment, unit or addition within the State of Alabama, including the works, machinery and all other equipment constituting a part of, or used in connection with, such extension, unit, betterment, or addition, the exemption and remittance provided for in this Act shall apply to so much of said extension, addition or betterment, and additional units erected, constructed or completed, after the passage of this Act, including the works, machinery and other equipment constituting a part of or used in connection with the same. In order to obtain the benefits of the exemption and remittance provided for in this sub-section, the person, firm or corporation owning or controlling, or proposing to own or control, any such factory or plant must make application in writing to the State Tax Commission, or other commission or board of the State having like jurisdiction, stating, in the case of a corporation, the date and place of incorporation or organization and the location of the principal place of business in the State of the applicant; in the case of a person, the name and address of the applicant; and, in the case of a partnership, the names and addresses of the partners composing the applicant. In all cases the application shall also state the location and a general description of the factory or plant, or extension thereof, or addition thereto, or the proposed factory, or plant, or the proposed extension thereof, or addition thereto, as the case may be, and pray for an order to be made by the State Tax Commission, or other Commission or board of the State having like jurisdiction, granting such applicant, his, its or their successors and assigns, the exemption and remittance provided for in this section, which application, after having been granted, shall be entered on the records of the State Tax Commission, or other Commission or Board of the State having like jurisdiction, and an order made allowing and granting such exemption and remission and designating the date upon which the same shall ex-

pire. If at any time the operation of such plant or factory shall cease for a period of six consecutive calendar months, then and in that event, the exemption and remission so granted shall immediately cease and be of no further effect; provided, however, that should such operation be resumed at any time thereafter, the State Tax Commission, or other commission or board of the State having like jurisdiction, may in its discretion grant a new period of exemption and remission, but in no event shall the total period or periods of exemption and remission exceed ten years. Provided, however, that nothing contained herein shall be held or construed to authorize or empower any Court of County Commissioners, Boards of Revenue or like governing body of any county in this State, or the governing body of any municipality within this State, or the State Tax Commission or any of its agencies, to exempt from taxation, either as to ad valorem, franchise or capital stock, any plant, factory or other institution herein mentioned, whether a corporation, individual or partnership, where such plant, factory, addition thereto or machinery and equipment have been built or completed, or the machinery or equipment therein installed, prior to the passage of this Act, it being the intention of this provision not to exempt any plant, factory or institution herein mentioned from any taxation which is now subject.

Section 2. That this act shall become effective upon its passage and approval by the Governor, or its otherwise becoming a law.

Approved September 13, 1939.

No. 406)

(H. 904—Smyer

AN ACT

To amend Schedule 158.11 of Chapter 6, Article 13 of an Act entitled "An Act to provide for the general revenue of the State of Alabama," approved July 10, 1935.

Be it Enacted by the Legislature of Alabama:

Section 1. That Schedule 158.11 of Chapter 6 Article 13 of an Act entitled "An Act to provide for the general revenue of the State of Alabama" approved July 10, 1935, be and the same is hereby amended to read as follows: Schedule 158.11. Every small trailer and semi-trailer subject to a license shall pay a license tax of fifty per cent (50%) of the cost of the license tax of the motor vehicle by which it is drawn. The same to be computed on what the license of the said motor vehicle would cost at the time of the purchase of the required trailer tag. The purchaser shall specify the truck to which the trailer or semi-trailer is to be attached. Each semi-trailer tag shall bear the same tag classification

corresponding in capacity to the truck tag of the truck to which it is to be attached. Trailers of any kind or description for hauling passengers for hire are prohibited by law. Small trailers attached to passenger cars, which are used for transporting of less than 1500 pounds are exempt from payment of any license. Provided that small trailers supported by its own wheels and carrying not more than 2,000 pounds may be used by farmers in transporting their produce to and from market, but for all other purposes they are prohibited, except as permission is given in other provisions of this Act. All trailers of any kind and description used by persons exclusively for the handling of farm products raised by said farmers are exempted from the paying of said license on said trailers.

Section 2. That all laws or parts of laws in conflict herewith are expressly repealed.

Section 3. That this Act shall become effective immediately upon its passage and approval by the Governor.

Approved September 13, 1939.

No. 407)

(H. 907—Smyer

AN ACT

To further regulate the powers of Courts of County Commissioners, Boards of Revenue or other like governing bodies with respect to State convicts, and county convicts which have been delivered over to the State by action of the governing body of any county.

Be it Enacted by the Legislature of Alabama:—

Section 1. That the Courts of County Commissioners, Boards of Revenue or other like governing bodies of the several counties in this State may hire from the State of Alabama, on such terms as may be agreed upon, any State convicts they may contract for from the State, to work on the public roads and bridges of their respective counties or to do any other public work for which convicts may be lawfully used under existing laws, and this shall apply to county convicts which have been delivered over to the State by action of the governing body of any county. Where such convicts are hired and used on public roads and bridges, the hire therefor may be paid out of any funds available for road and bridge building and improvement in the several counties.

Approved September 13, 1939.

No. 408)

(H. 926—Jones & Young

AN ACT

To authorize the issuance of not exceeding \$900,000 aggregate principal amount of general obligation Bonds of the State of Alabama, additionally secured by the pledge of a certain gasoline excise tax, for the purpose of paying or retiring, before maturity, bonds of Alabama Bridge Commission (an Agency of the State of Alabama), which were outstanding on July 1, 1939, and to provide for the terms, conditions and specifications and the execution and delivery of said bonds and the disposition of the proceeds thereof, and to authorize the purchase of bonds of Alabama Bridge Commission (an Agency of the State of Alabama), which were outstanding on July 1, 1939.

Be it Enacted by the Legislature of Alabama:

Section 1. There are hereby authorized to be issued at one time or from time to time not exceeding \$900,000 aggregate principal amount of bonds of the State of Alabama for the purpose of paying or retiring, prior to maturity, the bonds of Alabama Bridge Commission (an Agency of the State of Alabama), which were outstanding on July 1, 1939. The bonds hereby authorized shall be general obligations of the State of Alabama, and the full faith and credit and taxing power of the State are hereby irrevocably pledged to the payment of the principal of and interest on said proposed bonds as such principal and interest mature and become due. All of said bonds, together with any other bonds of the State providing for a pledge of said gasoline excise tax which may be authorized by constitutional amendment ratified on the same day as this amendment is ratified shall be additionally secured, without priority of one bond over another, by a pledge of a sufficient amount of the proceeds of the gasoline excise tax pledged to the payment of the highway bonds authorized by the amendment to the Constitution of the State of Alabama known as Article XX—A, subject, however, to the prior pledge of said gasoline excise tax to the payment of said highway bonds. The bonds hereby authorized and the interest thereon shall be forever exempt from the payment of all taxes of every kind. Said bonds may be used as security for the deposit of State Funds.

Section 2. Said bonds shall be negotiable bonds, and shall mature annually at such times and in such amounts over a period of not exceeding fifteen years, shall bear interest at a rate of not exceeding three per centum (3%) per annum, payable semi-annually, shall be payable to bearer with coupons attached and contain provisions for registration as to principal only or as to principal and interest, shall be payable in lawful money of the United States of America at such place or places, within or without the State of Alabama, shall be non-callable in advance of maturity or contain any provisions for redemption in advance of maturity, with or without a premium, all as the Governor, the Director of Finance and

the State Treasurer may determine and designate.

Section 3. Said bonds shall be signed in the name of the State of Alabama by the Governor and countersigned either by the State Treasurer or by the Director of Finance, shall be sealed with the great seal of the State of Alabama, and shall be attested by the Secretary of State. The coupons attached to said bonds shall be executed with the facsimile signature of either the State Treasurer or the Director of Finance or both.

Section 4. Any of said bonds which are issued otherwise than in exchange for outstanding bonds shall be sold by the Governor, the Director of Finance and the State Treasurer to the highest bidder at public sale, unless sold within thirty days after the failure to receive any legally acceptable bid at a duly advertised public sale in accordance with the provisions of this section. The public sale shall be either on sealed bids or at auction. The notice of public sale shall state whether the sale is to be on sealed bids or at auction, shall state the amount of bonds to be sold, the maturities thereof, the amount payable at each maturity, and either the rate of interest which the bonds are to bear or that the bidders are invited to name the rate of interest in their bids, shall state the amount of the certified check required to be deposited to qualify a bidder, and shall also state the time and place of sale or for submitting sealed bids. Said notice shall be published once in each of two consecutive weeks in a newspaper published in the State of Alabama. The first of such two publications shall be not less than ten days before the last date for submitting bids, if the sale is on sealed bids, or the date of sale, if the sale is at auction. The Governor, the Director of Finance and the State Treasurer shall have the right to reject all bids, and they shall require all bids to be accompanied by a certified check in such amount as they may prescribe, which amount shall be sufficient to compensate the State of Alabama for the probable loss to it in the event that a successful bidder fails to take up and pay for the bonds as required. In the event that any successful bidder shall fail to take up and pay for any of such bonds as required, the certified check of such bidder shall be forfeited to the State of Alabama. No bond shall be sold at less than the par value thereof.

Section 5. Such bonds as shall have been sold shall be delivered in such manner and at such time or times as the Governor, the Director of Finance and the State Treasurer may direct. The payment for bonds sold under the provisions of this Act shall be made to the State Treasurer, who shall give a receipt therefor, which receipt shall be full acquittal to the purchaser for the purchase price of said bonds. The State Treasurer shall deposit or hold the proceeds of such bonds in a separate trust fund, to be used solely for the payment or retirement of designated bonds of Alabama Bridge Commission (an Agency of the State of Alabama),

which were outstanding on July 1, 1939. Accrued interest on any bonds so sold and delivered shall be paid by the purchaser thereof to the State Treasurer and shall be held by the State Treasurer in a special trust fund to be used solely for the payment of interest on such bonds sold and delivered.

Section 6. Anything in the two preceding sections to the contrary notwithstanding, any bond or bonds authorized by this Act may be exchanged for a bond or bonds of Alabama Bridge Commission (an Agency of the State of Alabama), which were outstanding on July 1, 1939, of a like principal amount but only if the Governor, the Director of Finance and the State Treasurer shall determine, on the basis of bids received at a prior public sale, that a better net price could not be received if such bond or bonds should be offered at a public sale. The redemption premium on any such outstanding bond may be paid in cash from any available funds.

Section 7. The Governor, the Director of Finance and the State Treasurer may, at any time in their discretion, purchase any of the bonds of Alabama Bridge Commission (an Agency of the State of Alabama), at a price or prices not exceeding par plus the redemption premium on said bonds plus accrued interest. For such purpose they may use any available funds, including, but without limiting the generality of the foregoing, the proceeds of any bonds issued under the provisions of this Act.

Section 8. The State Treasurer shall furnish to the Director of Finance a record of all bonds sold or issued or exchange hereunder, the date of sale, exchange or issuance, the purchase price received therefor, the amount received as accrued interest thereon, the bonds paid or retired therewith and the date of such payment or retirement. All bonds and interest coupons paid or retired shall be cremated by the State Treasurer in the presence of the Attorney General and the Director of Finance and such officers shall execute a certificate of cremation which shall describe the bonds cremated and which shall be filed in the office of the Director of Finance.

Section 9. Any action required to be taken or any determination or decision required to be made by two or more officers by the provisions of this Act shall be incontestible if such officers sign a paper setting forth the action taken or the determination made. In the event of the incapacity, absence from the State or illness of any officer required or authorized to take any action or make any determination or decision under this Act or in the event that the office of any such officer shall for any reason be vacant, the officer or person acting in the place or stead of such officer shall have full power and authority to act in his place and take any action or make any determination or decision under the provisions of this Act.

Section 10. If any provision of this Act or the application thereof to any person, situation or circumstance shall be adjudged invalid, such adjudication shall not affect the remaining provisions nor the application of the provision with respect to which such adjudication was made to any other person, situation or circumstance.

Section 11. All laws or parts of laws in conflict with any provision of this Act are, to the extent of such conflict, hereby repealed.

Section 12. This Act shall take effect on and immediately after the adoption of any amendment to the Constitution of the State of Alabama authorizing the issuance of bonds of the State for the purpose of paying or retiring any outstanding bonds of Alabama Bridge Commission (an Agency of the State of Alabama).

Approved September 13, 1939.

No. 409)

(H. 937—McGowin

AN ACT

To provide a use tax upon tobacco products; to require returns showing the amount of such tax; to provide assessment of such tax and appeals therefrom; to provide execution and garnishment for the collection of such tax; to provide that such tax shall constitute a debt secured by a lien; to require the preservation and inspection of records and provide penalties for the failure thereof; to provide for the disposition of revenues so collected.

Be it Enacted by the Legislature of Alabama:

Section 1. DEFINITIONS. The following words, terms and phrases when used in this Act shall have the meaning ascribed to them in this section, except where the context indicates a different meaning: (1) The term "person" includes any individual, firm, company, partnership, association, corporation, receiver or trustee, or any other group or combination acting as a unit, and the plural as well as the singular number. (2) The term "department" means the Department of Revenue of the State of Alabama. (3) The term "commissioner" means the Commissioner of Revenue of the State of Alabama. (4) The term "storage" means and includes any keeping or retention in this State for any purpose except sale in the regular course of business or subsequent use solely outside this State of the commodities subject to the provisions of this Act. (5) The term "use" means and includes the exercise of any right or power over the commodities subject to the provisions of this Act, incident to the ownership of those commodities or by any transaction where possession is given, except that it shall not include the sale of those commodities in the regular course of business. (6) The term "in this State" means within the exterior limits

of the State of Alabama, and includes all territory within such limits owned by or ceded to the United States of America. (7) The term "tobacco product" includes cigars, cheroots, stogies, cigarettes, smoking tobacco, chewing tobacco, snuff, or tobacco in any form or condition or any substitute therefor. (8) The term "retail sale" or "sale at retail" shall include all sales except sales by wholesalers to licensed retail dealers or other wholesalers for resale.

Section 2. **USE TAX.** An excise tax is hereby imposed on the storage, use or other consumption in this state of tobacco products purchased at retail on or after the effective date of this act in an amount equal to that set out in the schedule in section 1 of Schedule 159 of Section 348 of Chapter 6 of Article XIII of an Act entitled "An Act to provide for the General Revenue of the State of Alabama" approved July 10, 1935. Every person storing, using or otherwise consuming in this State tobacco products purchased at retail shall be liable for the tax imposed by this Act, and the liability shall not be extinguished until the tax has been paid to this State; provided however, if said tobacco products have attached thereto the stamps provided in said Section 1 of said Schedule 159 as aforesaid, or if said tax imposed by said Schedule 159 as aforesaid, has been paid by the seller of such tobacco products, then the tax imposed by this Act shall not be due.

Section 3. **RETURNS.** Every person owning or having in his possession or custody tobacco products, the storage, use or other consumption of which is subject to the tax imposed by this Act, shall on or before the 10th day of the month following file with the Department a return for the preceding month in such form as may be prescribed by the Department showing the tobacco products purchased by such person, and such other information as the Department may deem necessary for the proper administration of this Act. The return shall be accompanied by a remittance of the amount of tax herein imposed.

Section 4. **ASSESSMENT.** In case any person subject to the tax imposed by this Act fails to make such a return, or makes an incorrect return, the Department, from the best information available to it, shall assess the correct amount of tax due from such person. A copy of such assessment shall be furnished such person by registered mail, return receipt requested, or by personal service; any person aggrieved by any such assessment may appeal therefrom in the manner provided for appeals from assessments by said Department.

Section 5. **EXECUTION AND GARNISHMENT.** If no appeal is taken from the final assessment of any tax imposed by this Act within the time allowed by law, and such tax remains unpaid for thirty days after such assessment, or if a signed return has been filed with the State Department of Revenue showing the amount

of such tax which is due and such tax is not paid within thirty days after said signed return is so filed, then in either event, the Department shall issue a writ of execution therefor directed to any sheriff of the State of Alabama commanding him to levy upon and sell the real and personal property of the person against whom such execution is directed, found within his county, for the payment thereof, with damages to the amount of ten per cent (10%) of the tax, together with interest, and the cost of executing said writ. The sheriff shall, upon receipt of said writ of execution, file a copy thereof with the probate judge of his county, and thereupon the probate judge shall enter the same, without fees therefor, in the book for the registration of liens of judgments and decrees kept in his office and the day and hour when such copy is filed, and thereupon the amount of such execution so entered shall become a lien in the county where filed, on all the property of such taxpayer, and such lien shall continue for ten years after the date of such execution. The filing of such execution as provided herein shall be notice to all persons of the existence of the lien thereby created. The sheriff thereupon shall levy upon any property of said taxpayer with like effect and in the manner prescribed by law in respect to execution issued upon judgments of the Circuit Court or court of like jurisdiction and the sheriff shall be entitled to the same fee for his services as now allowed by law for like services, to be collected in the same manner as now provided by law for like services. The sheriff shall make due return on such execution within sixty days of the issuance thereof to the Department and upon such return, alias or plures executions may be issued by the Department which shall be executed in the same manner. If the Commissioner of Revenue ascertains or has just cause to believe that any person is indebted to, or has in his possession or under his control, any money, property, or choses in action belonging to any such delinquent taxpayer in this State, written notice by registered mail, return receipt requested, or by personal service by some agent of the State Department of Revenue, shall be served upon such person to appear before some court in the county having jurisdiction of the amount involved, naming the court, to answer as garnishee, and under oath, whether he was indebted to such taxpayer at the time of the service of the notice, or at the time of making his answer, or whether he will be indebted to him by any contract then existing, and if so, the amount of such indebtedness; and whether he has in his possession or under his control, any and what money, property or choses in action belonging to such taxpayer; and in such notice, the amount of the taxes, penalties, or fees, either or all, due from such taxpayer, shall be set out. Such taxpayer, if in the State, shall be given written notice of aforesaid, of the service of such garnishment; and said garnishment and

notice shall, without delay, be filed in the court before which the garnishee is cited to appear. It shall be the duty of the Commissioner of Revenue, as far as by diligent inquiry he can, to ascertain what persons are indebted to or have in their possession any money, property or choses in action belonging to any delinquent taxpayer. Such proceedings shall be conducted in the name of the State; and if the notice served on the garnishee is returnable before a justice of the peace, or court having like jurisdiction, the garnishee must answer within three days after service of writ of garnishment; if before the circuit court or court having like jurisdiction, he must answer within thirty days after service of writ of garnishment; and thereupon, or in the event of a failure to answer such proceedings, judgment may be had as in cases of garnishment or judgment. The same fees shall be charged as in the cases of garnishment on judgment.

Section 6. LIEN. The tax herein levied shall constitute a debt due the State of Alabama and may be collected by civil suit in addition to the methods herein provided. The tax herein levied shall be secured by a lien, superior to all other liens except the liens for state, county and city ad valorem taxes upon the personal property of any person subject to the provisions hereof.

Section 7. RECORDS. It shall be the duty of every person storing, using or otherwise consuming in this State tobacco products subject to the provisions of this Act to keep and preserve all invoices, books, papers, cancelled checks, or other memoranda touching the purchase, sale, exchange, receipt, ownership, storage, use or other consumption of such tobacco product for a period of three years. All such invoices, books, papers, cancelled checks, or other memoranda shall be subject to audit and inspection by any duly authorized representative of the State Department of Revenue at any and all reasonable times. Any person who fails or refuses to keep and preserve the records as herein required, or who upon request by a duly authorized agent of the State Department of Revenue fails or refuses to allow an audit or inspection of the records as herein provided, shall be guilty of a misdemeanor and upon conviction therefor be punished as in case of conviction for a misdemeanor.

Section 8. DISPOSITION OF FUNDS. All revenue collected under the provisions of this Act shall be paid to the State Department of Revenue, and shall be covered into the Alabama Special Educational Trust Fund under provisions of an Act of the Legislature approved July 22, 1927.

Section 9. SEVERABILITY. Each section of this Act and every part of each section is hereby declared to be independent sections and parts of sections, and the holding of any section or part thereof to be void, ineffective or unconstitutional for any cause

shall not affect the other sections and parts of sections would have been enacted regardless of any such section or part of section being held unconstitutional, inoperative, or ineffective.

Section 10. **REPEALING CLAUSE.** All laws or parts of laws inconsistent with or in conflict with the provisions of this act are, to the extent of such inconsistency or conflict, hereby expressly repealed.

Section 1. **EFFECTIVE DATE.** This Act shall become effective immediately upon its enactment.

Approved September 13, 1939.

No. 410)

(H. 942—Snyder

AN ACT

To amend Sections 2, 7, 26 and 28 of an Act approved August 28, 1935, entitled "An Act To create and establish in each County of the State of Alabama which has a population of 200,000 or more people, according to the last Federal Census, or which may hereafter have a population of 200,000 or more people, according to any subsequent Federal Census, a County wide Civil Service System, affecting certain personnel whose compensation is now or may hereafter be payable in whole or part from the public funds of such counties or municipalities located therein; to create a Citizens Supervisory Commission and to create a Personnel Board and other agencies for the supervision and administration of said System in each of such Counties; to define the scope and extent of said System and the powers, duties and authority of said Commission, Board and other agencies; to regulate and define the manner, form and extent of the control, supervision and authority of such agencies over such Personnel and over such counties and municipalities therein; to provide for payment of the expenses of each such agency and for a division of such expense between the county affected and the municipalities therein; to provide penalties for the violation of this Act and of rules and regulations adopted pursuant thereto; and to repeal all laws and parts of laws inconsistent with the provisions hereof," as amended by an Act approved March 17, 1939, entitled "An Act To amend an Act entitled 'An Act to create and establish in each County of the State of Alabama which has a population of 200,000 or more people, according to the last Federal Census, or which may hereafter have a population of 200,000 or more people, according to any subsequent Federal Census, a County wide Civil Service System, affecting certain personnel whose compensation is now or may hereafter be payable in whole or part from the public funds of such counties or municipalities located therein; to create a Citizens Supervisory Commission and to create a Personnel Board and other agencies for the supervision and administration of said system in each of such Counties; to define the scope and extent of said System and the powers, duties and authority of said Commission, Board and other agencies; to regulate and define the manner, form and extent of the control, supervision and authority of such agencies over such Personnel and over such counties and municipalities therein; to provide for payment of the expenses of each such agency and for a division of such expense between the county affected and the municipalities therein; to provide penalties for the violation of this Act and the rules and regulations adopt-

ed pursuant thereto; and to repeal all laws and parts of laws inconsistent with the provisions hereof."

Be it Enacted by the Legislature of Alabama:

Section 1. That Sections 2, 7, 26 and 28 of an Act approved August 28, 1935, entitled "An Act To create and establish in each County of the State of Alabama which has a population of 200,000 or more people, according to the last Federal Census, or which may hereafter have a population of 200,000 or more people, according to any subsequent Federal Census, a County wide Civil Service System, affecting certain personnel whose compensation is now or may hereafter be payable in whole or part from the public funds of such counties or municipalities located therein; to create a Citizens Supervisory Commission and to create a Personnel Board and other agencies for the supervision and administration of said System in each of such Counties; to define the scope and extent of said System and the powers, duties and authority of said Commission, Board and other agencies; to regulate and define the manner, form and extent of the control, supervision and authority of such agencies over such Personnel and over such counties and municipalities therein; to provide for payment of the expenses of each such agency and for a division of such expense between the county affected and the municipalities therein; to provide penalties for the violation of this Act and of rules and regulations adopted pursuant thereto; and to repeal all laws and parts of laws inconsistent with the provisions hereof," as amended by an Act approved March 17, 1939, entitled "An Act To amend an Act entitled 'An Act to create and establish in each County of the State of Alabama which has a population of 200,000 or more people, according to the last Federal Census, or which may hereafter have a population of 200,000 or more people, according to any subsequent Federal Census, a County wide Civil Service System, affecting certain personnel whose compensation is now or may hereafter be payable in whole or part from the public funds of such counties or municipalities located therein; to create a Citizens Supervisory Commission and to create a Personnel Board and other agencies for the supervision and administration of said System in each of such Counties; to define the scope and extent of said System and the powers, duties and authority of said Commission, Board and other agencies; to regulate and define the manner, form and extent of the control, supervision and authority of such agencies over such Personnel and over such counties and municipalities therein; to provide for payment of the expenses of each such agency and for a division of such expense between the county affected and the municipalities therein; to provide penalties for the violation of this Act and the rules and regulations adopted pursuant thereto; and to repeal all laws and parts of laws inconsistent with the provisions hereof'" be

amended to read as follows: Section 2. PERSONNEL BOARD CREATED AND THE EXTENT OF ITS AUTHORITY DEFINED. (a) There is hereby created and established, in and for each separate county of the State of Alabama which has a population of two hundred thousand or more people according to the last Federal Census and also for each county of the State of Alabama which shall hereafter come into such population class according to any subsequent Federal Census, a Personnel Board for the government and control by rules and regulations and practices hereinafter set out or authorized of all employees and appointees holding positions in the classified service of such counties and the municipalities therein whose population according to the last Federal Census was five thousand or more and such Board is now given and vested with such power, authority and jurisdiction. Provided, however, that such Board shall not govern any officers or appointees holding positions in the unclassified service, (b) The Unclassified Service shall include: all employees or appointees of a city or county Board of Education, a Board of Health or a Library Board; persons engaged in the profession of teaching or in supervising teaching in the public schools; officers elected by popular vote; the judge of any court; the County Attorney; the Director of Personnel; One Private Secretary of a member of the governing body; internes, resident physicians, student technicians and student nurses, while undergoing training in a hospital maintained by public funds; common laborers; Members of Boards who are not employed on a full time basis and are not required to devote their time and services exclusively to such counties and municipalities therein; attorneys, physicians and surgeons who with the express or implied permission of an appointing authority or of such county or city hold themselves out for employment by others in the same or a like line of work as that performed by them for such appointing authority; where there are two county sites or county courthouse sites maintained in one county and a county officer or officers are required to maintain an office in one courthouse and a branch or subsidiary office in the other of said courthouses, the Chief Deputy of each elective officer in charge of such branch office. The Classified Service shall include all other offices and positions in the county and municipal service, except as otherwise provided in this Act. (c) The Classified Service shall not include the positions of Chief Deputy Sheriff of a county, or Chief of the Police Department, or Chief of the Fire Department of a municipality, until the expiration of the present term of office provided by law for the appointing authority, or until the termination of the tenure of the person occupying the position of Chief Deputy Sheriff, Chief of the Police Department, or Chief of the Fire Department, at the time this Act becomes effective. Upon either the expiration

of the present term of office provided by law for the appointing authority, or the termination of the tenure of the person occupying the position of Chief Deputy Sheriff, Chief of the Police Department, or Chief of the Fire Department, at the time this Act becomes effective, (whichever happens first), the position shall become subject to the Classified Service; provided, however, that if a person who holds such position at the time this Act becomes effective, continues to hold such position until the expiration of the present term of office provided by law for the appointing authority, the appointing authority for the next succeeding term may appoint such person as the first incumbent of the position without regard to the provisions of this Act respecting the selection and appointing of personnel in the Classified Service; and, if such person is so appointed, he shall be deemed to have earned permanent civil service status, and he shall thereafter be subject to all provisions of this Act relating to personnel in the Classified Service. In the event any person now occupying the position of Chief of the Police Department, or Chief of the Fire Department, was employed in a position in the department of which he is now Chief, at the time he was appointed Chief, and is hereafter removed from the position of Chief, he shall have the option to return to a position in the same grade or classification of the department of which he is now Chief as was the position held by him at the time he was appointed Chief, unless his removal is for misconduct. (d) Each member of the Board in all hearings before it may administer oaths, certify to official acts, issue subpoenas, compel the attendance of witnesses and the production of papers, books, and records and may punish for contempt of the Board in like manner and extent as may be done by courts of county commissioners. (e) A member of the Board or his employer shall be prohibited from selling materials, supplies or services to a county or municipality unless such sales are made as the result of open competitive bidding. (f) The term "independent contractor", as used in this section shall include a prospective independent contractor, and the term "appointing authority", as used in this section, shall also include the public entity for which an appointing authority acts. The term "employee", as used in this act, shall not be deemed to include "independent contractors", but, in order to prevent evasions of the policy of this act, the Board shall have power to control, in the manner hereinafter specified, the use of independent contractors for performance of work for an appointing authority except in cases hereinafter specifically exempted from such control. The Board shall exercise constant vigilance to see that the policy of this act be not evaded by the use of independent contractors, and whenever the Board shall have reason to believe that work is about to be, or is being, done, continued or completed by an independent contractor for an

appointing authority, and that such work is such as to be, or, at the time of commencement thereof, to have been, performable as well, practically, expeditiously and economically by one or more employees appointed, or appointable, under this act as by an independent contractor, the Board may serve such appointing authority and such independent contractor, if such independent contractor be known, with a written request to appear before the Board at a time and place specified in such written instrument and show cause, if any there be, why such work should not be done, continued or completed by one or more employees appointed, or appointable, under this act. Deposit of such written request in the United States registered mail, postage and registration fee prepaid and properly addressed, shall be sufficient service. At the time and place specified in said written request such appointing authority and independent contractor, or either of them, may appear, and, in such event, shall be accorded a fair hearing. If, upon such hearing, or in the event opportunity therefor be not availed of, in the absence thereof, the Board shall determine that such work is such, or of such character, as to be, or, at the time of commencement thereof, to have been, performable as well, practically, expeditiously and economically by one or more employees appointed, or appointable, under this act as by an independent contractor, and that no sufficient reason has been made to appear why such work should be performed by an independent contractor in preference to one or more employees appointed, or appointable, under this act, the Board may enter an order prohibiting the doing, continuance or completion of such work after a date specified in such order otherwise than by and through one or more employees appointed, or to be appointed, under this act, and no compensation shall be paid to, or received by, an independent contractor affected by such order for work done after the date specified in such order. In arriving at its determination the Board shall consider, among other things, and give appropriate weight, to the circumstance of whether or not competent persons are available for appointment under this act for performance of the type of work involved, and of whether or not the type of work involved is such as may be reasonably expected to be continuous for an indefinite time, regularly recurrent, or sporadic, and of whether or not the type of work involved is such as is customarily and generally let to independent contractors, and or whether or not the appointing authority possesses, or should reasonably be expected to obtain, physical facilities for performance of such work by one or more employees appointed, or appointable, under this act. The Board, however, shall have no power to prohibit the use of independent contractors for the construction of viaducts, bridges, street improvements, sewers, canals, public buildings, or public utilities, and, should an appointing au-

thority desire to do any such construction work by means of its own construction forces or employees, the Board, upon application to it first made, may, but is not required, to permit the doing of such construction work by construction forces or employees of the appointing authority not appointed under this act, subject to such conditions and limitations as the Board may prescribe. In order to forestall the possibility of prohibition by the Board of use of an independent contractor for the further performance of any work after such work has been let to such independent contractor, an appointing authority may apply to the Board in advance of the letting of any work to an independent contractor for permission to do so, such application to be in writing and to contain a copy of the proposed contract or such general description of its substance as may be satisfactory to the Board. The Board may grant such application with or without conditions or limitations, and if the same be granted the Board shall not thereafter prohibit anything thus authorized. In its determination concerning grant or refusal of such application, the Board shall be guided by the same considerations as are herein above indicated for guidance of its determination upon the question of whether or not to prohibit the commencement or continuation of work by an independent contractor.

Section 7. DUTIES OF PERSONNEL DIRECTOR. The Director of Personnel, subject to the provisions of this Act and approval of the Personnel Board, shall: (1) Subject to the approval of the Board appoint or remove such subordinates as may be necessary to administer a scientific and economical personnel system and fix their compensation. If at any time the Citizens Supervisory Commission recommends that the number of such subordinates or their compensation be reduced, such recommendation shall be immediately put into effect. (2) Prepare and submit to the Board for its consideration and approval such forms, rules and regulations as are necessary to carry out the provisions of this act, including rules governing examinations, appointments, suspensions, dismissals, certification of eligibles, reduction in force, sick leave, leave of absence, resignation, reinstatements, promotions, demotions, transfers, salary adjustments, and any and all other rules and regulations necessary for administering a scientific and economical personnel or Civil Service System. Such rules and regulations must be approved by a two-thirds majority of the Personnel Board before becoming effective after which they shall have the force and effect of law unless they are contrary to the provisions of this Act. (3) Classify or direct the classification of all positions to be held under either municipal or county authority in accordance with the provisions of this Act and in accordance with the duties attached to such positions. (4) Grade and classify all positions in the County and in each city in the County and for each

appointing authority with respect to salary to the end that each employee shall receive the same compensation as all other employees of the county or city from which he receives his compensation receive for the same grade and class of service. (5) Establish, after consultation or offer of consultation with the governing bodies affected and with the written approval of the Board, a minimum and maximum salary schedule or pay plan for all positions, which shall become effective within thirty days after submission to the governing body concerned, provided that the governing body of each county and municipality affected hereby may raise or lower such schedule (1) by applying the same percentage of increase or decrease to the entire schedule or (2) by applying the same flat sum of increase or decrease to each position in the entire schedule. Changes in the salary schedule of one classification or a number of classifications less than all, may be made by a governing body only upon approval by the Board. (6) Provide, by proper rules, regulations and orders, subject to approval by the Board, for the advancement of salary within each grade on the basis of efficiency and length of service. Such salary schedules, classes and grades may from time to time be amended, added to, consolidated or abolished. Any appointing power authorized by law to fix the compensation of an employee or appointee, subject to the provisions of this Act, must so fix said compensation in accordance with the classification and salary schedule herein provided, and in accordance with the rules and regulations and orders of the Director for the advancement of salary within the grade in which such employee or appointee is classified; and the question of whether or not the employee has been referred to the proper grade and classification and whether or not the salary of such employee is fixed in accordance with the rules, regulations and orders governing the advancement of salary within such grade shall be a matter subject to the decision of the Board. (7) When the classification is completed and the compensation schedule for each appointing authority determined as herein provided all employees receiving a salary in excess of the maximum for the class and grade in which they are employed shall be reduced by the appointing authority to or below the maximum; those receiving a salary less than the minimum for the class and grade in which they are employed shall be increased to or above the minimum, provided there are sufficient funds available. It is further provided that no appointing authority shall pay or cause to be paid a salary to any employee greater than or less than the salary to which such employee would be entitled under the rules, regulations and orders for the advancement of salary within the grade in which such employee is classified. Section 26. **SALARY ADJUSTMENTS.** All adjustments, either upward or downward, of salaries of employees in the classified service shall

be made in strict conformity with the provisions of this Act and the rules and regulations prescribed thereunder. Section 28. REDUCTION IN FORCE. Whenever it is necessary because of lack of work, lack of funds or whenever it is advisable in the interest of economy to reduce the staff of any department or agency of the counties, or any municipality affected by this Act, the appointing authorities shall lay off employees according to the procedure set forth in this Act and the rules and regulations prescribed thereunder. The duties performed by the employee or employees so laid off may be assigned to any other permanent civil service employee or employees in the department or office, who, in the opinion of the Director of Personnel, are qualified to perform such duties regardless of the specific classification or grade to which such employees are allocated. Lay offs shall be made by laying off the employee in the classification to be affected by the lay off who last attained such classification or grade, and so on in succession. In case there are two or more who would be affected by a lay off, and who have an equal rating as to seniority, *the employee who stands lowest according to the efficiency records kept by the Director of Personnel shall be laid off.* When an employee is laid off in a department which has other classifications or grades lower than the classification or grade from which he, or she, is laid off he, or she, shall have the option of working in any other lower classification or grade in the same department, provided the Director of Personnel finds that he, or she, is qualified to perform the duties of such lower classification or grade. Where an employee so laid off drops to a lower classification or grade, and where the appointing authority reduces the number of employees in such lower classification or grade, the reduction shall be made in the manner in which it is here provided lay offs shall be made. A person laid off from a classification or grade shall have the right, so long as he, or she, is in the service or on the lay off list to return to the position from which he, or she, is laid off, in the event such position is refilled. The names of employees laid off as provided herein shall be placed upon the department lay off list for such position as in the opinion of the Director of Personnel the employees are qualified and entitled to hold, including any positions which may be thereafter created in the department. The order of the names on the lay off list shall be in the relative order of seniority; provided, however, that where there are two or more employees who are equal in seniority they shall stand on the lay off list in the order of their efficiency records kept by the Director of Personnel. All permanent Civil Service employees compensated on a monthly basis who are to be laid off are to be given 15 days' notice of such lay off prior to the effective date thereof.

Approved September 15, 1939.

AN ACT

To authorize the issuance of not exceeding \$5,000,000 aggregate principal amount of general obligation Bonds of the State of Alabama, additionally secured by the pledge of a certain gasoline excise tax, for the purpose of paying or retiring, before maturity, bonds of the Alabama State Bridge Corporation and the Alabama Bridge Authority, Incorporated, which were outstanding on July 1, 1939, and to provide for the terms, conditions and specifications and the execution and delivery of said bonds and the disposition of the proceeds thereof, and to authorize the purchase of bonds of the Alabama State Bridge Corporation and the Alabama Bridge Authority, Incorporated, which were outstanding on July 1, 1939.

Be it Enacted by the Legislature of Alabama:

Section 1. There are hereby authorized to be issued at one time or from time to time not exceeding \$5,000,000 aggregate principal amount of bonds of the State of Alabama for the purpose of paying or retiring, prior to maturity, the bonds of the Alabama State Bridge Corporation and the bonds of the Alabama Bridge Authority, Incorporated, which were outstanding on July 1, 1939. The bonds hereby authorized shall be general obligations of the State of Alabama, and the full faith and credit and taxing power of the State are hereby irrevocably pledged to the payment of the principal of and interest on said proposed bonds as such principal and interest mature and become due. All of said bonds, together with any other bonds of the State providing for a pledge of said gasoline excise tax which may be authorized by constitutional amendment ratified on the same day as this amendment is ratified shall be additionally secured, without priority of one bond over another, by a pledge of a sufficient amount of the proceeds of the gasoline excise tax pledged to the payment of the highway bonds authorized by the amendment to the Constitution of the State of Alabama known as Article XX—A, subject, however, to the prior pledge of said gasoline excise tax to the payment of said highway bonds. The bonds hereby authorized and the interest thereon shall be forever exempt from the payment of all taxes of every kind. Said bonds may be used as security for the deposit of State Funds.

Section 2. Said bonds shall be negotiable bonds, and shall mature annually at such times and in such amounts over a period of not exceeding fifteen years, shall bear interest at a rate of not exceeding three per centum (3%) per annum, payable semi-annually, shall be payable to bearer with coupons attached and contain provisions for registration as to principal only or as to principal and interest, shall be payable in lawful money of the United States of America at such place or places, within or without the State of Alabama, shall be non-callable in advance of maturity or contain any provision for redemption in advance of maturity, with or with-

out a premium, all as the Governor, the Director of Finance and the State Treasurer may determine and designate.

Section 3. Said bonds shall be signed in the name of the State of Alabama by the Governor and countersigned either by the State Treasurer or by the Director of Finance or both, shall be sealed with the great seal of the State of Alabama, and shall be attested by the Secretary of State. The coupons attached to said bonds shall be executed with the facsimile signature of either the State Treasurer or the Director of Finance or both. In the event of the incapacity, absence from the State or illness of any such officers or in the event that the office of any of such officers shall for any reason be vacant, the officer or person acting in the place or stead of such officer shall have authority to perform in his place the act or acts provided in this section.

Section 4. Any of said bonds which are issued otherwise than in exchange for outstanding bonds shall be sold by the Governor, the Director of Finance and the State Treasurer to the highest bidder at public sale, unless sold within thirty days after the failure to receive any acceptable bid at a duly advertised public sale. The public sale shall be either on sealed bids or at auction. The notice of public sale shall state whether the sale is to be on sealed bids or at auction, shall estimate the amount of bonds to be sold and the probable maturities thereof and either the rate of interest which the bonds are to bear or that the bidders are invited to name the rate of interest in their bids, shall state the amount of the certified check required to be deposited to qualify a bidder, and shall also state the time and place of sale. Said notice shall be published once in each of two consecutive weeks in a newspaper published in the State of Alabama. The first of such two publications shall be not less than ten days before the date of sale. No such sale shall be invalid because a different amount of bonds or bonds having different maturities from those stated in the notice of sale are then sold. The Governor, the Director of Finance and the State Treasurer shall have the right to reject all bids, and they shall require all bids to be accompanied by a certified check in such amount as they may prescribe. In the event that any successful bidder shall fail to take up and pay for any of such bonds as required, the certified check of such bidder shall be forfeited to the State of Alabama. No bond shall be sold at less than the par value thereof.

Section 5. Such bonds as shall have been sold shall be delivered in such manner and at such time or times as the Governor, the Director of Finance and the State Treasurer may direct. The payment for bonds sold under the provisions of this Act shall be made to the State Treasurer, who shall give a receipt therefor, which receipt shall be full acquittal to the purchaser for the purchase price of said bonds. The State Treasurer shall deposit or hold the proceeds of such bonds in a separate trust fund, to be used

solely for the payment or retirement of designated bonds of the Alabama State Bridge Corporation or the Alabama Bridge Authority, Incorporated, which were outstanding on July 1, 1939. Accrued interest on any bonds so sold and delivered shall be paid by the purchaser thereof to the State Treasurer and shall be held by the State Treasurer in a special trust fund to be used solely for the payment of interest on such bonds sold and delivered.

Section 6. Anything in the two preceding sections to the contrary notwithstanding, any bond or bonds authorized by this Act may be exchanged for a bond or bonds of the Alabama State Bridge Corporation or the Alabama Bridge Authority, Incorporated, which were outstanding on July 1, 1939, of a like principal amount but only if the Governor, the Director of Finance and the State Treasurer shall determine, on the basis of bids received at a prior public sale, that a better net price could not be received if such bond or bonds should be offered at a public sale. The redemption premium on any such outstanding bond may be paid in cash from any available funds.

Section 7. The Governor, the Director of Finance and the State Treasurer may, at any time in their discretion, purchase any of the bonds of the Alabama State Bridge Corporation or of the Alabama Bridge Authority, Incorporated, at a price or prices not exceeding par plus the redemption premium on said bonds plus accrued interest. For such purpose they may use any available funds, including, but without limiting the generality of the foregoing, the proceeds of any bonds issued under the provisions of this Act.

Section 8. The State Treasurer shall furnish to the Director of Finance a record of all bonds sold or issued or exchanged hereunder, the date of sale, exchange or issuance, the purchase price received therefor, the amount received as accrued interest thereon, the bonds paid or retired therewith and the date of such payment or retirement. All bonds and interest coupons paid or retired shall be cremated by the State Treasurer in the presence of the Attorney General and the Director of Finance and such officers shall execute a certificate of cremation which shall describe the bonds cremated and which shall be filed in the office of the Director of Finance.

Section 9. Any action required to be taken or any determination or decision required to be made by two or more officers by the provisions of this Act shall be incontestible if such officers sign a paper setting forth the action taken or the determination made. In the event of the incapacity, absence from the State or illness of any officer required or authorized to take any action or make any determination or decision under this Act or in the event that the office of any such officer shall for any reason be vacant, the officer or person acting in the place or stead of such officer shall have full power and authority to act in his place and take

any action or make any determination or decision under the provisions of this Act.

Section 10. If any provision of this Act or the application thereof to any person, situation or circumstance shall be adjudged invalid, such adjudication shall not affect the remaining provisions nor the application of the provision with respect to which such adjudication was made to any other person, situation or circumstance.

Section 11. All laws or parts of laws in conflict with any provision of this Act are, to the extent of such conflict, hereby repealed.

Section 12. This Act shall take effect on and immediately after the adoption of any amendment to the Constitution of the State of Alabama authorizing the issuance of bonds of the State for the purpose of paying or retiring any outstanding bonds of the Alabama State Bridge Corporation or the Alabama Bridge Authority, Incorporated.

Approved September 13, 1939.

No. 413)

(H. J. R. 116—McGowin

HOUSE JOINT RESOLUTION

WHEREAS, the President of the United States has urged the people of the United States against profiteering to the detriment of the people of the entire world; and

WHEREAS, the Governor of the State of Alabama has urged the citizens of our State against profiteering on account of the war in Europe; and

WHEREAS, the League of Municipalities of the State of Alabama has urged the citizens of Alabama against profiteering and price raising of commodities on account of the European war; Now, Therefore,

BE IT RESOLVED by the House, the Senate concurring, that the Legislature of Alabama urges all of the citizens of the State of Alabama against price raising of commodities and profiteering at the expense of our people.

BE IT FURTHER RESOLVED that certified copies of this resolution be forwarded to the Governor of this State, to the Secretary of State at Washington and to the President of the United States.

Approved September 15, 1939.

AN ACT

To amend the caption, Section 2 and Section 6 of an Act entitled "An Act to prescribe the conditions under which a municipal corporation, county, improvement authority, power district, federal or other governmental agency may engage in the business of furnishing electric service for industrial, domestic or other consumption in a territory in which there is in existence at the time a plant or distribution system or any part thereof furnishing such service to the public, and to provide a method by which such municipal corporation, county, improvement authority, power district, federal or other governmental agency may acquire such existing facilities at a price to be agreed upon by the parties or fixed by the Alabama Public Service Commission; to provide for a hearing of such matters by the Commission and for appeals from orders entered therein; to exempt from the provisions of this act, with respect to any existing plant or distribution system within its corporate limits, any municipal corporation which prior to the approval hereof shall have been authorized by an election to construct an electric distribution system; and to provide for the repeal of all laws in conflict herewith," approved August 18, 1939.

Be it Enacted by the Legislature of Alabama:

Section 1. That the caption of an Act entitled "An Act to prescribe the conditions under which a municipal corporation, county, improvement authority, power district, federal or other governmental agency may engage in the business of furnishing electric service for industrial, domestic or other consumption in a territory in which there is in existence at the time a plant or distribution system or any part thereof furnishing such service to the public, and to provide a method by which such municipal corporation, county, improvement authority, power district, federal or other governmental agency may acquire such existing facilities at a price to be agreed upon by the parties or fixed by the Alabama Public Service Commission; to provide for a hearing of such matters by the Commission and for appeals from orders entered therein; to exempt from the provisions of this act, with respect to any existing plant or distribution system within its corporate limits, any municipal corporation which prior to the approval hereof shall have been authorized by an election to construct an electric distribution system; and to provide for the repeal of all laws in conflict herewith," approved August 18, 1939, be and the same is hereby amended to read as follows: "An Act to prescribe the conditions under which a municipal corporation, county, improvement authority, power district, federal or other governmental agency may engage in the business of furnishing electric service for industrial, domestic or other consumption in a territory in which there is in existence at the time a plant or distribution system or any part thereof furnishing such service to the public, and to provide a method by which such municipal corporation, county, improvement authority,

power district, federal or other governmental agency may acquire such existing facilities at a price to be agreed upon by the parties or fixed by the Alabama Public Service Commission; to provide for a hearing of such matters by the Commission and for appeals from orders entered therein; to provide for certain exemptions from the application of this act; and to provide for the repeal of all laws in conflict herewith."

Section 2. That Section 2 of an Act entitled "An Act to prescribe the conditions under which a municipal corporation, county, improvement authority, power district, federal or other governmental agency may engage in the business of furnishing electric service for industrial, domestic or other consumption in a territory in which there is in existence at the time a plant or distribution system or any part thereof furnishing such service to the public, and to provide a method by which such municipal corporation, county, improvement authority, power district, federal or other governmental agency may acquire such existing facilities at a price to be agreed upon by the parties or fixed by the Alabama Public Service Commission; to provide for a hearing of such matters by the Commission and for appeals from orders entered therein; to exempt from the provisions of this act, with respect to any existing plant or distribution system within its corporate limits, any municipal corporation which prior to the approval hereof shall have been authorized by an election to construct an electric distribution system; and to provide for the repeal of all laws in conflict herewith," approved August 18, 1939, be and the same is hereby amended to read as follows: "Section 2. If within thirty days after receipt of such notice the owner shall propose voluntarily to sell and transfer such property to the agency upon terms and conditions to be mutually agreed upon between the owner and the agency and approved by the Alabama Public Service Commission, and serve a copy of such proposal upon the agency and upon the Commission, the Commission shall fix a time and place to hear and consider such proposal and notify all parties interested therein. If the terms and conditions of purchase and sale shall be agreed upon by and between the owner and the agency and approved by the Commission, the Commission shall announce its approval thereof by appropriate order and the agency shall by resolution or ordinance, as the case may be, authorize and direct the execution on the part of the agency of such contract in writing and other instrument and take any and every other action with reference thereto necessary or appropriate to consummate such purchase and sale and the transfer to the agency of possession of such acquired property and payment therefor in accordance with the terms of such agreement. However, if the owner fails or refuses to advise such agency within thirty days after receipt of such notice of its purpose to sell such property then the agency may proceed as provided by law to con-

struct, condemn, or otherwise acquire a plant or system within the designated territory; and the advice to be given by the owner to such agency shall be sufficient if it advises that the owner is willing to sell the property provided the valuation as finally determined by the Commission or Court is satisfactory to the owner. Upon the owner advising of its willingness to sell such property, acquisition of the property sought to be acquired shall proceed with the rights and privileges to the respective parties as herein-after set forth."

Section 3. That Section 6 of an Act entitled "An Act to prescribe the conditions under which a municipal corporation, county, improvement authority, power district, federal or other governmental agency may engage in the business of furnishing electric service for industrial, domestic or other consumption in a territory in which there is in existence at the time a plant or distribution system or any part thereof furnishing such service to the public, and to provide a method by which such municipal corporation, county, improvement authority, power district, federal or other governmental agency may acquire such existing facilities at a price to be agreed upon by the parties or fixed by the Alabama Public Service Commission; to provide for a hearing of such matters by the Commission and for appeals from orders entered therein; to exempt from the provisions of this act, with respect to any existing plant or distribution system within its corporate limits, any municipal corporation which prior to the approval hereof shall have been authorized by an election to construct an electric distribution system; and to provide for the repeal of all laws in conflict herewith," approved August 18, 1939, be and the same is hereby amended to read as follows: "Section 6. Nothing in this act shall be deemed to require the purchase of or payment of compensation for any existing plant or distribution system within the corporate limits of any agency in which the construction of an electric distribution system has been authorized by an election held prior to the approval of this act, nor shall this act apply with respect to any project for which loans or grants have been made or are under contract to be made by the United States through Federal Emergency Administrator of Public Works, the Federal Works Administrator, the Commissioner of Public Works, the Federal Works Agency or the Public Works Administration, nor shall this act apply to Rural Electric Membership Corporation Distribution Systems."

Section 4. That this act shall become effective immediately upon its passage and approval by the Governor.

Approved September 12, 1939.

No. 415)

(S. 194—Simpson)

AN ACT

To authorize and empower a city council or other governing body of any city in the State of Alabama having a population of not less than six thousand and not more than fifteen thousand, according to the last or any subsequent Federal Census, to dissolve the consolidation and administration of county and city schools and operate its schools under the general school laws of the State of Alabama pertaining to City Schools.

Be it Enacted by the Legislature of Alabama:

Section I. That the City Council or other governing body of any city in the State of Alabama having a population of not less than six thousand and not more than fifteen thousand according to the last or any subsequent Federal Census may, by resolution or ordinance, dissolve the consolidation and administration of county and city schools located within the corporate limits of such city.

Section II. That upon the passage of such resolution or ordinance, as provided for in Section I of this Act, such City may immediately administer and control all educational matters affecting such city under the general school laws of the State of Alabama governing city schools to the same extent, and in the same manner as if such city schools had never been consolidated with the county school system.

Section III. All laws and parts of laws in conflict with the provisions hereof are hereby repealed.

Section IV. This law shall become effective upon its approval by the Governor.

Approved September 15, 1939.

No. 416)

(S. 289—Stakely)

AN ACT

To amend Section 10314 of the Code of 1923, relating to the salary of the Marshal and Librarian of the Supreme Court.

Be it Enacted by the Legislature of Alabama:

Section 1. That section 10314 of the Code of 1923 be amended to read as follows: Section 10314 (5978) (3852) (692) (596) (675) (577) SALARY OF THE MARSHAL AND LIBRARIAN. The salary of the Marshal and Librarian of the Supreme Court shall be three thousand dollars \$3,000.00 per annum, payable monthly out of the State Treasury, as the salaries of other State officers are paid, provided that nothing contained herein is intended, nor shall it be construed, as an amendment to, modification of, or limitation upon, any of the provisions of the Merit System Act, being Act No. 58 of the Regular Session of the Legislature of 1939, Approved

March 2, 1939. It is the Legislative intent that if the position of Marshal and Librarian is subject to the pay plan as set out in said Merit System Act, it shall remain so subject, anything herein to the contrary notwithstanding.

Section 2. This Act shall become effective upon its passage and approval by the Governor.

Approved September 13, 1939.

No. 417)

(S. 290—Stakely

AN ACT

To further regulate the office of Clerk of the Supreme Court; to prescribe additional duties of said Clerk and to fix his salary.

Be it Enacted by the Legislature of Alabama:

Section 1. The Clerk of the Supreme Court shall be paid an annual salary of Three Thousand Six Hundred Dollars, payable out of the State Treasury monthly as other state officers are paid, and there is hereby appropriated out of the State Treasury the sum of Three Thousand Six Hundred Dollars per annum for the payment of the salary of the Clerk of the Supreme Court.

Section 2. In addition to the duties of the Clerk of the Supreme Court, as heretofore prescribed by law, the Clerk shall be charged with the custody and care of the Department of Justice building, under the direction of the Supreme Court and the Director of Finance. This service by the Clerk of the Supreme Court constitutes a substantial new and additional service attached to the office of Clerk, and shall be compensated by the increase in salary of said office.

Section 3. If any provisions of this Act be held invalid or inoperative, same shall not affect the remaining provisions of this Act.

Approved September 13, 1939.

No. 418

(S. 291—Stakely

AN ACT

To amend Sections 10332, 10334, and 10335 of the Code of 1923, relating to the reporter of decisions of the Supreme Court, fixing his salary and regulating the duties thereof.

Be it Enacted by the Legislature of Alabama:

Section 1. That Section 10332 of the Code of 1923 be amended to read as follows: Section 10332. (5997) (3866) (706) COMPENSATION OF THE REPORTER. The reporter shall receive as his compensation the sum of three thousand six hundred dollars

per annum, payable monthly out of the state treasury, upon the warrant of the comptroller of the state, as the salaries of other state officers are paid, and there is hereby appropriated out of the state treasury the sum of three thousand six hundred dollars per annum for the payment of the salary of the reporter.

Section 2. That Section 10334 of the Code of 1923 be amended to read as follows: Section 10334. (5996) (3864) (703) (596) (686, 687) (585) RECEIVING AND DISPOSITION OF RECORDS BY REPORTER. The clerks of the supreme court and the court of appeals shall, as soon as cases have been acted upon, deliver to the reporter the records, briefs, of counsel and copies of opinions therein; and the reporter shall promptly report said cases and return all records to said clerks for filing.

Section 3. That Section 10335 of the Code of 1923 be amended to read as follows: Section 10335. CONTRACT FOR PRINTING AND PUBLISHING REPORTS PROVIDED FOR.—The governor, the auditor and the treasurer of the state may contract for the printing and publishing of the reports of the supreme court of Alabama and the court of appeals of Alabama, or for the reprinting or republishing of any one or more of the volumes of the Alabama reports, in the manner in which other like contracts are made, with such bidder, within or without the State of Alabama, as shall seem to them the best and lowest responsible bidder, as to price and length of time. To the end that bids may be made more favorable to the state, the reporter shall furnish to the publisher without cost all copies of opinions, statements of facts and other matter required under contract with such publisher for the publisher's personal use. This service by the reporter shall constitute a substantial new and additional service attached to the office of reporter, and shall be compensated by the amount by which the salary of said office is increased in and by amended Code Section 10332 above.

Section 4. The provisions of this act are separate and severable, and any one or more would have been enacted without the others.

Approved September 13, 1939.

No. 419)

(S. 362—Young—Norman (Bullock)

AN ACT

To provide a retirement fund for aged and incapacitated teachers in the state supported schools; to establish a teachers' retirement system; to determine membership and conditions of membership in said system; to provide for a board of control of said system and for the administration of its affairs; to provide for the adoption of mortality, service and other actuarial tables as may be deemed necessary; to provide for the management of the funds of the said system; and to provide a method of financing said system.

Be it Enacted by the Legislature of Alabama:

Section 1. DEFINITIONS. The following words and phrases as used in this Act unless a different meaning is plainly required by the context shall have the following meanings: (1) "Retirement system" shall mean the Teachers' Retirement System of Alabama as defined in Section 2 of this act. (2) "Public school" shall mean any day school conducted within the State under the authority and supervision of a duly elected or appointed county or city board of education and any educational institution supported by and under the control of the State. (3) "Teacher" shall mean any teacher, principal, superintendent, supervisor, college professor, administrative officer, or clerk employed in any public school or public college within the State, or any similar employee or officer of the State Department of Education or of the Alabama Education Association, or any attendance worker fifty per cent. or more of whose salary is paid from public school funds, or any employee receiving a regular stated compensation from the retirement system. In all cases of doubt the Board of Control hereinafter defined, shall determine whether any person is a teacher as defined in this act. (4) "Employer" shall mean the State of Alabama, the county school board, the city school board, the State Board of Education, or any other agency of and within the State by which a teacher is paid. (5) "Member" shall mean any teacher included in the membership of the system as provided in Section 3 of this act. (6) "Board of Control" shall mean the board provided for in Section 6 of this act to administer the retirement system. (7) "Trustees" shall mean the members of the Board of Control, to administer the trust funds. (8) "Service" shall mean service as a teacher. (9) "Prior service" shall mean service rendered prior to the date of establishment of the retirement system for which credit is allowable under Section 4 of this act. (10) "Membership service" shall mean service as a teacher rendered while a member of the retirement system and on account of which contributions are made. (11) "Creditable service" shall mean "prior service" plus "membership service" rendered since last becoming a member. (12) "Beneficiary" shall mean any person in receipt of a pension, an annuity, a retirement allowance, or other benefit as provided by this act. (13) "Regular interest" shall mean interest compounded annually at such a rate as shall be determined by the Board of Control in accordance with Section 7, Subsection (2), of this act. (14) "Accumulated contributions" shall mean the sum of all the amounts deducted from the compensation of a member and credited to his individual account in the Annuity Savings Fund, together with regular interest thereon, as provided in Section 8 of this act. (15) "Earnable compensation" shall mean the full rate of the compensation that would be payable to a teacher if he

worked the full normal working time. In cases where compensation includes maintenance, the Board of Control shall fix the value of that part of the compensation not paid in money. (16) "Average final compensation" shall mean the average annual earnable compensation of a teacher during his last ten years of service prior to retirement, or if he should have less than ten years of service, then his average earnable compensation for his total service. (17) "Annuity" shall mean payments for life derived from the "accumulated contributions" of a member. All annuities shall be payable in equal monthly instalments. (18) "Pension" shall mean payments for life derived from money provided by the employer. All pensions shall be payable in equal monthly installments. (19) "Retirement allowance" shall mean the sum of the "annuity" and the "pension". (20) "Retirement" shall mean withdrawal from active service with a retirement allowance or optional benefit in lieu thereof granted under the provisions of this act. (21) "Annunity reserve" shall mean the present value of all payments to be made on account of any annuity or benefit in lieu of any annuity computed upon the basis of such mortality tables as shall be adopted by the Board of Control, and regular interest. (22) "Pension reserve" shall mean the present value of all payments to be made on account of any pension or benefit in lieu of any pension computed upon the basis of such mortality tables as shall be adopted by the Board of Control, and regular interest. (23) "Actuarial equivalent" shall mean a benefit of equal value when computed upon the basis of such mortality tables as shall be adopted by the Board of Control, and regular interest. (24) The masculine pronoun, whenever used, shall include the feminine. (25) Normal contribution represents the contribution of the State necessary to provide a pension equal to the annuity which the member's contribution made prior to age 60 with interest will provide at age 60.

Section 2. NAME AND DATE OF ESTABLISHMENT. A retirement system is hereby established and placed under the management of the Board of Control for the purpose of providing retirement allowances and other benefits under the provisions of this act for teachers of the State of Alabama. The retirement system so created shall be established as of October first, nineteen hundred and forty, or as soon thereafter as the Governor by proclamation declares the funds accruing to the Teachers' Retirement System of Alabama are sufficient to meet the obligations of the 'normal contribution' on October 1st, of a year following October 1st, 1940. It shall have the power and privileges of a corporation and shall be known as the "Teachers' Retirement System of Alabama", and by such name all of its business shall be transacted, all of its funds invested, and all of its cash and securities and other property held in trust for the purpose for which received.

Section 3. MEMBERSHIP. The membership of the retirement system shall consist of the following: (1) All persons who shall become teachers after the date of establishment shall become members of the retirement system as a condition of their employment. (2) Any person who is a teacher on the date of establishment shall become a member as of that date unless within a period of ninety days next following such teacher shall file with the Board of Control on a form prescribed by the Board a notice of his election not to be covered in the membership of the system and a duly executed waiver of all present and prospective benefits which would otherwise inure to him on account of his participation in the retirement system. (3) A teacher whose membership in the retirement system is contingent on his own election and who elects not to become a member, may thereafter apply for and be admitted to membership but no such teacher shall receive prior service credit unless he becomes a member within the first year following the date of establishment. (4) The Board of Control may, in its discretion, deny the right to become members to any class of teachers whose compensation is only partly paid by the State or who are serving on a temporary or other than per annum basis, and it also may, in its discretion, make optional with members in any such class their individual entrance into the retirement system. (5) Should any member in any period of six consecutive years after becoming a member be absent from service more than five years, or withdraw his contributions, as provided in Subsection (3) of Section 5, or retire or die, he shall thereupon cease to be a member.

Section 4. CREDITABLE SERVICE. (1) Under such rules and regulations as the Board of Control shall adopt, each member who was a teacher at any time during the year immediately preceding the date of establishment of the system and who becomes a member during the first year after the date of establishment, shall file a detailed statement of all service as a teacher rendered by him prior to the date of establishment for which he claims credit. (2) The Board of Control shall fix and determine by appropriate rules and regulations how much service in any year is equivalent to one year of service, but in no case shall it allow any credit for a period of absence without pay of more than one month's duration, nor shall more than one year of service be creditable for all service in one calendar year. Service rendered for a regular school year shall be equivalent to one year's service. (3) Subject to the above restrictions and to such other rules and regulations as the Board of Control may adopt, the Board of Control shall verify, as soon as practicable after the filing of such statements of service, the service therein claimed. (4) Upon verification of the statements of service, the Board of Control shall issue prior service certificates certifying to each member the length of service in excess of ten years rendered prior to the date of establishment, with which he is cred-

ited on the basis of his statement of service. So long as membership continues, a prior service certificate shall be final and conclusive for retirement purposes as to such service, provided, however, that any member may, within one year from the date of issuance or modification of such certificate request the Board of Control to modify or correct his prior service certificate, and provided that the Board of Control may, with the approval of the State Department of Education, increase from time to time the length of service so certified, but not to exceed in total in any individual case the length of service as a teacher rendered prior to the date of establishment. When membership ceases such prior service certificate shall become void. Should the teacher again become a member, he shall enter the system as a teacher not entitled to prior service credit. (5) Creditable service at retirement on which the retirement allowance of a member shall be based shall consist of the membership service rendered by him since he last became a member, and also if he has a prior service certificate which is in full force and effect, the amount of the service certified on his prior service certificate.

Section 5. *BENEFITS. Service Retirement Benefit* (1) (a) Any member in service may retire upon written application to the Board of Control setting forth at what time, not less than thirty days nor more than ninety days subsequent to the execution and filing thereof, he desires to be retired, provided, that the said member at the time so specified for his retirement shall have attained age sixty, and notwithstanding that during such period of notification he may have separated from service. (b) Any member in service who has attained age seventy shall be retired forthwith, provided that with the approval of his employer he may remain in service until the end of the school year following the date on which he attains age seventy. (c) Notwithstanding the provisions of paragraphs (a) and (b) immediately preceding, prior to October first, nineteen hundred and forty-three, retirements under paragraph (a) shall be restricted to teachers who have attained or shall attain age seventy and no retirements shall be made under the provisions of paragraph (b). *Allowance for Service Retirement* (2) Upon retirement from service a member shall receive a service retirement allowance which shall consist of: (a) An annuity which shall be the actuarial equivalent of his accumulated contributions at the time of his retirement; and (b) A pension which shall be equal to the annuity allowable at age sixty computed on the basis of contributions made prior to the attainment of age sixty; and (c) If he has a prior service certificate in full force and effect an additional pension which shall be equal to the annuity which would have been provided at age sixty by twice the contributions which he would have made during the period of prior service with which he is credited, had the system been in operation and had he con-

tributed thereunder. In lieu of a determination of the actual compensation of the members that was received during such prior service, the Board of Control may use for the purposes of this act the compensation rates which, if they had progressed with the rates of salary increase shown in the tables as prescribed in Section 6, Subsection (13), of this act, would have resulted in the same average salary of the member for the five years immediately preceding the date of establishment as the records show the member actually received, or in the member's earnable compensation on the date of establishment, whichever is less. *Return of Contributions*

(3) (a) Should a member having not less than three years of membership service cease to be a teacher except by death or by retirement under the provisions of this act, the contributions standing to the credit of his individual account in the Annuity Savings Fund shall be paid to him upon demand, and in addition to such payment there shall be paid seven-tenths of the interest accumulations standing to the credit of his individual account if he shall have not less than three but less than sixteen years of membership service, eight-tenths of such interest accumulations if he shall have not less than sixteen but less than twenty-one years of membership service, nine-tenths of such interest accumulations if he shall have not less than twenty-one but less than twenty-six years of membership service, and all of such interest accumulations if he shall have not less than twenty-six years of membership service. (b) Should a member having not less than three years of membership service die before retirement, the amount of his contributions with such interest as would have been returnable in the case of withdrawal as provided in Paragraph (a) of this subsection shall be paid to his estate, or to such person as he shall have nominated by written designation duly executed and filed with the Board of Control. *Optional Allowances*

(4) With the provision that no election of an option shall be effective in case a beneficiary dies within thirty days after retirement or within thirty days after filing such election, and that such a beneficiary shall be considered as an active member at the time of death, until the first payment on account of any benefit becomes normally due any member may elect to receive, in lieu of his retirement allowance payable throughout life, the actuarial equivalent at that time of his retirement allowance in a reduced retirement allowance payable throughout life with the provision that: Option 1. If he dies before he has received in annuity payments the present value of his annuity as it was at the time of his retirement, the balance shall be paid to his legal representatives or to such person as he shall nominate by written designation duly acknowledged and filed with the Board of Control; or Option 2. Upon his death, his reduced retirement allowance shall be continued throughout the life of and paid to such person as he shall

nominate by written designation duly acknowledged and filed with the Board of Control at the time of his retirement; or Option 3. Upon his death, one half of his reduced retirement allowance shall be continued throughout the life of and paid to such person as he shall nominate by written designation duly acknowledged and filed with the Board of Control at the time of his retirement; or Option 4. Some other benefit or benefits shall be paid either to the member or to such person or persons as he shall nominate, provided such other benefit or benefits, together with the reduced retirement allowance, shall be certified by the actuary to be of equivalent actuarial value to his retirement allowance and shall be approved by the Board of Control.

Section 6. ADMINISTRATION. *Board of Control* (1) The general administration and responsibility for the proper operation of the retirement system and for making effective the provisions of the act are hereby vested in a board of trustees which shall be known as the Board of Control and shall be organized immediately after a majority of the trustees provided for in this section shall have qualified and taken the oath of office. (2) The Board shall consist of seven trustees as follows: (a) The State Superintendent of Education, ex-officio. (b) The State Treasurer, ex-officio. (c) The Director of Finance, ex-officio. (d) The Executive Secretary of the Alabama Education Association, ex-officio. (e) Three members of the retirement system, one of whom shall be a city or county superintendent, one of whom shall be a principal, and one of whom shall be a classroom teacher, who shall be elected by the members of the retirement system for a term of three years each according to such rules and regulations as the Board of Control shall adopt to govern such elections, provided that the first three members of the retirement system to serve as members of the Board of Control shall be appointed by the State Superintendent of Education. He shall appoint such city or county superintendent to serve for a term of one year, such principal to serve for a term of two years, and such classroom teacher to serve for a term of three years. The terms of office of the three members appointed by the State Superintendent of Education shall begin immediately after they have qualified and taken the oath of office. The Board of Control, together with the officers of the Alabama Education Association, shall provide for the elections of the three members of the Board of Control to be elected by the members of the retirement system. One such member shall be elected at each annual convention of the Alabama Education Association. (3) If a vacancy occurs in the office of a trustee, the vacancy shall be filled for the unexpired term in the same manner as the office was previously filled. (4) The trustees shall serve without compensation for their services as trustees but they shall be reimbursed

from the Expense Fund for all necessary expenses that they may incur through service on the Board of Control. (5) Each trustee shall, within ten days after his appointment or election, take an oath of office that, so far as it devolves upon him, he will diligently and honestly administer the affairs of the Board of Control and that he will not knowingly violate or willingly permit to be violated any of the provisions of law applicable to the retirement system. Such oath shall be subscribed to by the member making it, certified by the officer before whom it is taken, and immediately filed in the office of the Secretary of State. (6) Each trustee shall be entitled to one vote in the Board of Control. Four votes shall be necessary for a decision by the trustees at any meeting of said board. (7) Subject to the limitations of this act the Board of Control shall, from time to time, establish rules and regulations for the administration of the funds created by this act and for the transaction of its business. (8) The Board of Control shall elect from its membership a Chairman and by a majority vote of all its members shall appoint a Secretary-Treasurer, who may be, but need not be, one of its members. The Board shall engage such actuarial and other service as shall be required to transact the business of the retirement system. The compensation of all persons engaged by the Board, and all other expenses of the Board necessary for the operation of the retirement system shall be paid at such rates and in such amounts as the Board shall approve. (9) The Board of Control shall keep in convenient form such data as shall be necessary for actuarial valuation of the various funds of the retirement system, and for checking the experience of the system. (10) The Board of Control shall keep a record of all of its proceedings which shall be open to public inspection. It shall publish annually a report showing the fiscal transactions of the retirement system for the preceding school year, the amount of the accumulated cash and securities of the system, and the last balance sheet showing the financial condition of the system by means of an actuarial valuation of the assets and liabilities of the retirement system. *Legal Adviser.* (11) The Attorney General of the State shall be the legal adviser of the Board of Control. *Duties of Actuary.* (12) The Board of Control shall designate an actuary who shall be the technical adviser of the Board of Control on matters regarding the operation of the funds created by the provisions of this act, and shall perform such other duties as are required in connection therewith. (13) Immediately after the establishment of the retirement system the actuary shall make such investigation of the mortality, service, and compensation experience of the members of the system as he shall recommend and the Board of Control shall authorize, and on the basis of such investigation he shall recommend for adoption by the Board of Control such tables

and such rates as are required in Subsection (14), Paragraphs (a) and (b), of this section. The Board of Control shall adopt tables and certify rates, and as soon as practicable thereafter the actuary shall make a valuation based on such tables and rates, of the assets and liabilities of the funds created by this act. (14) In the year nineteen hundred and forty-three, and at least once in each five-year period thereafter, the actuary shall make an actuarial investigation into the mortality, service and compensation experience of the members and beneficiaries of the retirement system, and shall make a valuation of the assets and liabilities of the funds of the system, and taking into account the results of such investigation and valuation, the Board of Control shall: (a) Adopt for the retirement system such mortality, service and other tables as shall be deemed necessary; and (b) Certify the rates of contribution payable by the State under the provisions of this act. (15) On the basis of such tables as the Board of Control shall adopt, the actuary shall make an annual valuation of the assets and liabilities of the funds of the system created by this act.

Section 7. MANAGEMENT OF FUNDS. (1) The Board of Control shall be the trustees of the several funds created by this act as provided in Section 8, and shall have full power to invest and reinvest such funds, subject to all the terms, conditions, limitations, and restrictions imposed by the laws of Alabama upon domestic life insurance companies in the making and disposing of their investments; and subject to like terms, conditions, limitations and restrictions, the Board shall have full power to hold, purchase, sell, assign, transfer and dispose of any of the securities and investments in which any of the funds created herein shall have been invested, as well as the proceeds of said investments and any moneys belonging to said funds. (2) The Board of Control shall allow annually regular interest on the mean amount for the preceding year in each of the funds, with the exception of the Pension Fund and the Expense Fund. The amounts so allowed shall be due and payable to said funds, and shall be credited annually thereto by the Board of Control from interest and other earnings on the moneys of the retirement system. Any additional amount required to meet the interest on the funds of the retirement system shall be paid from the Pension Accumulation Fund, and any excess of earnings over such amount required shall be paid to the Pension Accumulation Fund. Regular interest shall mean such per centum rate to be compounded annually as shall be determined by the Board of Control on the basis of the interest earnings of the system for the preceding year and of the probable earnings to be made, in the judgment of the Board, during the immediate future, such rate to be limited to a minimum of three per centum and a maximum of four per centum with the latter rate applicable dur-

ing the first year of operation of the retirement system, preceding year. (3) The State Treasurer shall be the custodian of the several funds. All payments from said funds shall be made by him only upon vouchers signed by two persons designated by the Board of Control. A duly attested copy of a resolution of the Board of Control designating such persons and bearing on its face specimen signatures of such persons shall be filed with the Treasurer as his authority for making payments upon such vouchers. No voucher shall be drawn unless it has previously been authorized by resolution of the Board of Control, or included in the budget adopted by the Board. (4) For the purpose of meeting disbursements for pensions, annuities, and other payments there may be kept available cash, not exceeding ten per centum of the total amount in the several funds of the retirement system, on deposit in one or more banks or trust companies of the State of Alabama organized under the laws of the State or of the United States, provided that the sum on deposit in any one bank or trust company shall not exceed twenty-five per centum of the paid up capital and surplus of such bank or trust company. (5) Except as otherwise herein provided, no member of the Board of Control and no employee of the Board shall have any direct interest in the gains or profits of any investment made by the Board, nor as such receive any pay or emolument for his services. No member or employee of the Board of Control shall, directly or indirectly, for himself or as an agent, in any manner use the same, except to make such current and necessary payments as are authorized by the Board; nor shall any member or employee of the Board of Control become an endorser or surety or in any manner an obligor for moneys loaned or borrowed from the Board.

Section 8. METHOD OF FINANCING. All of the assets of the retirement system shall be credited according to the purpose for which they are held among six funds, namely, the Annuity Savings Fund, the Annuity Reserve Fund, the Pension Accumulation Fund, the Pension Reserve Fund, the Pension Fund, and the Expense Fund. (1) *Annuity Savings Fund* (a) The Annuity Savings Fund shall be a fund in which shall be accumulated contributions from the compensation of members to provide for their annuities. Contributions to and payments from the Annuity Savings Fund shall be made as follows: (b) Each employer shall cause to be deducted from the salary of each member on each and every payroll of such employer for each and every payroll period three and one half per centum of his earnable compensation up to \$3,000.00 per annum. But the employer shall not have any deduction made for annuity purposes from the compensation of a member who elects not to contribute if he has attained age sixty and has completed thirty-five years of service. In determining the

amount earnable by a member in a payroll period, the Board of Control may consider the rate of annual compensation payable to such member on the first day of the payroll period as continuing throughout such payroll period, and it may omit deductions from compensation for any period less than a full payroll period if a teacher was not a member on the first day of the payroll period, and to facilitate the making of deductions it may modify the deduction required of any member by such an amount as shall not exceed one-tenth of one per centum of the annual compensation upon the basis of which such deduction is to be made. (c) The deductions provided for herein shall be made notwithstanding that the minimum compensation provided for by law for any member shall be reduced thereby. Every member shall be deemed to consent and agree to the deduction made and provided for herein and shall receipt for his full salary or compensation, and payment of salary or compensation less such deduction shall be a full and complete discharge and acquittance of all claims and demands whatsoever for the service rendered by such person during the period covered by such payment, except as to the benefits provided under this act. The employer shall certify to the Board of Control on each and every payroll or in such other manner as the Board may prescribe, the amounts to be deducted; and each of said amounts shall be deducted, and when deducted shall be paid into the Annuity Savings Fund, and shall be credited, together with regular interest thereon, to the individual account of the member from whose compensation said deduction was made. (d) In addition to the contributions deducted from compensation as hereinbefore provided, subject to the approval of the Board of Control, any member may redeposit in the Annuity Savings Fund by a single payment or by an increased rate of contribution an amount equal to the total amount which he previously withdrew therefrom as provided in this act, or any part thereof; or any member may deposit therein by a single payment or by an increased rate of contribution an amount computed to be sufficient to purchase an additional annuity which, together with his prospective retirement allowance, will provide for him a total retirement allowance of not to exceed one half of his average final compensation at age sixty. Such additional amounts so deposited shall become a part of his accumulated contributions except in the case of retirement, when they shall be treated as excess contributions returnable to the member in cash or as an annuity of equivalent actuarial value and shall not be considered in computing his pension. The contributions and interest credits of a member withdrawn by him, or paid to his estate or to his designated beneficiary in event of his death, shall be paid from the Annuity Savings Fund. Should a member cease to be a member other than by retirement

under the provisions of this act, an amount equivalent to the difference, if any, between his accumulated contributions and the amount then paid shall be transferred to the Expense Fund. Upon the retirement of a member his accumulated contributions shall be transferred from the Annuity Savings Fund to the Annuity Reserve Fund. (e) Notwithstanding the preceding provisions, no deductions shall be made from any member's salary on account of which the employer's contribution is in default. (2) *Annuity Reserve Fund.* The Annuity Reserve Fund shall be the fund in which shall be held the reserves on all annuities in force and from which shall be paid all annuities and all benefits in lieu of annuities. (3) *Pension Accumulation Fund* (a) The Pension Accumulation Fund shall be the fund in which shall be accumulated all reserves for the payment of all pensions and other benefits payable from contributions made by employees on account of members without prior service credit and for the payment of all pensions on account of the membership service of members with prior service credit. Contributions to and payments from the Pension Accumulation Fund shall be made as follows: (b) On account of each member there shall be paid annually into the Pension Accumulation Fund by employers for the preceding fiscal year an amount equal to a certain percentage of the earnable compensation of each member to be known as the "normal contribution". (c) The actuary engaged by the Board to make each valuation required by this act shall, immediately after making such valuation, determine the normal contribution rate by deducting from the total liabilities of the Pension Accumulation Fund the amount of the funds in hand to the credit of that fund and dividing the remainder by one per centum of the present value of the prospective future salaries of all members as computed on the basis of regular interest and the mortality and service tables adopted by the Board of Control. (d) All interest and dividends earned on the funds of the retirement system shall be credited to the Pension Accumulation Fund. The amounts needed to allow regular interest on the reserves in the Annuity Savings Fund, the Annuity Reserve Fund, and the Pension Reserve Fund shall be transferred in accordance with this act to the respective funds from the Pension Accumulation Fund. The Board of Control, in its discretion, may transfer to and from the Pension Accumulation Fund the amount of any surplus or deficit which may develop in the Annuity Savings Fund, the Annuity Reserve Fund, the Pension Reserve Fund, or the Expense Fund. (e) Upon the retirement of a member not entitled to credit for prior service, an amount equal to his pension reserve shall be transferred from the Pension Accumulation Fund to the Pension Reserve Fund. Upon the retirement of a member entitled to credit for prior service, an amount equal to his accumulated contribu-

tions, not in excess of the reserve on his pension for membership service, shall be similarly transferred. (4) *Pension Reserve Fund.* The Pension Reserve Fund shall be the fund in which shall be held the reserves on all pensions granted to members not entitled to credit for prior service and the reserves on pensions granted to members with prior service credit for which reserves were transferred to this fund, and from which such pensions and benefits in lieu thereof shall be paid. (5) *Pension Fund.* The Pension Fund shall be the fund from which all pensions granted to members with prior service credit, which are not provided from reserves transferred to the Pension Reserve Fund, shall be paid. Annually, there shall be paid into the Pension Fund by employers the sum needed to cover the amounts payable from the Pension Fund during the year. As an aid to the Board of Control in making its certification of the amounts due the retirement system, after each actuarial valuation the actuary shall submit to the Board an estimate of the expected pensions payable from the Pension Fund during the ensuing year on the basis of the mortality and service tables adopted by the Board, and he shall submit an estimate of the percentage of the payroll of all active members which this amount represents, after making due allowance for any balance existing in this fund and for reasonable variations in the actual payments from the expected. (6) *Expense Fund.* The Expense Fund shall be the fund from which the expenses of the administration of the retirement system shall be paid, exclusive of amounts payable as retirement allowances and as other benefits provided herein. Any amounts credited to the accounts of members withdrawing or dying before retirement and not returnable under the provisions of Subsection (3) of Section 5 shall be credited to the Expense Fund. Any additional contributions required to meet the expense of the retirement system shall be made as provided in Subsection (7), Paragraph (c), of this section. (7) *Collection of Contributions* (a) On or before October first of each year, each county and city board of education; the State Board of Education; the governing boards of the University of Alabama, the Alabama Polytechnic Institute, and Alabama College; and the Executive Committee of the Alabama Education Association shall file with the Board of Control of the Retirement System a certified statement containing the following information for the ensuing year concerning the members of the Retirement System employed by such boards: Name, address, monthly salary, annual salary, and such other information as the Board of Control may require. On or before September thirtieth of each year, each county and city board of education; the State Board of Education; the governing boards of the University of Alabama, the Alabama Polytechnic Institute, and Alabama College; and the Executive Committee of

the Alabama Education Association shall file with the Board of Control of the Retirement System a certified statement containing the following information concerning members of the retirement system employed by such boards during the fiscal year ending September thirtieth: Name, address, monthly salary actually paid, total annual salary actually paid, and such other information as the Board of Control may require. (b) The collection of members' contributions shall be as follows: Each county and city board of education; the State Board of Education, the governing boards of the University of Alabama, the Alabama Polytechnic Institute, and Alabama College; and the Executive Committee of the Alabama Education Association shall cause to be deducted on each and every payroll period subsequent to the date of the establishment of the retirement system the contributions payable by each member as provided in this act. Each employer shall transmit monthly, or at such time as the Board of Control shall designate, the total amount so deducted to the Secretary-Treasurer of the Board of Control accompanied by an itemized statement of the contributions of each individual member of the retirement system. The Secretary-Treasurer of the Board of Control after making a record of all such receipts shall transmit the same to the State Treasurer to be held for use according to the provisions of this act. Notwithstanding anything in this section, the Board of Control may modify the form of reports required of employers, and may modify the method of collecting the contributions of members so that employers may retain the amount so deducted and have a corresponding amount deducted from funds otherwise payable to them. (c) The collection of employers' contributions shall be made as follows: On or before October first of each year, upon the basis of the last actuarial valuation, the Board of Control shall prepare and certify to the State Comptroller a statement of the amount calculated as a percentage of the salaries of teachers to be contributed by employers in the ensuing year to the Pension Accumulation Fund, the Pension Fund, and the Expense Fund in accordance with Subsections (3), (5) and (6) of this section. Thereupon the State Comptroller shall set this amount up annually in the state budget as the amount to be transferred from the teachers' retirement fund to the custody of the Board of Control of the Teachers' Retirement System. On or before the first of November of each year, the State Comptroller shall certify to the Secretary-Treasurer of the Board of Control the amount in the teachers' retirement fund available for such transfer and, after making a record of such certificate, the Secretary-Treasurer shall draw a warrant payable from the teachers' retirement fund in the amount required to pay the contributions of employers in the ensuing year to the Pension Accumulation Fund, the Pension Fund, and the Expense Fund in accordance with Subsection

(3), (5) and (6) of this section, or, in the total amount certified by the State Comptroller as available in the teachers' retirement fund if such total is less than the amount required to pay the contributions of employers as named above, and shall transmit the same to the State Treasurer to be held for use according to provision of this act. For the period prior to October first, nineteen hundred and forty-three the total amount transferred to the retirement system shall be limited to the amounts made available in the act or acts appropriating funds for a retirement fund for teachers, adopted by the legislature of nineteen hundred and thirty-nine. The amounts appropriated by said act or acts, or such parts thereof as may be available in case the full amount is not available in any year, shall be paid to this retirement system each year and deemed expended in the year, by first crediting to the Expense Fund a sum not in excess of ten thousand dollars in each year, next by crediting to the Pension Accumulation Fund the amount ascertained by the Board of Control to be due to such fund, and the balance to the Pension Fund. Notwithstanding anything to the contrary in this act, the payment of pensions from the Pension Fund shall be limited to the amounts available to the fund for this purpose. Provided, however, that any provision of this act to the contrary notwithstanding, the contributions provided to be made by any of said employers to the Pension Accumulation Fund, the Pension Fund, and the Expense Fund, shall be payable only out of said teachers' retirement fund in the manner herein provided, and said employers, other than the State of Alabama, shall not in any event be called upon to pay any such contribution from any appropriations or other moneys or funds of such employers.

Section 9. EXEMPTIONS FROM EXECUTION. The right of a person to a pension, an annuity, for a retirement allowance, to the return of contributions, the pension, annuity, or retirement allowance itself, any optional benefit or any other right accrued or accruing to any person under the provisions of this act, and the moneys in the various funds created by this act, are hereby exempt from any state or municipal tax, and exempt from levy and sale, garnishment, attachment, or any other process whatsoever, and shall be unassignable except as in this act specifically otherwise provided.

Section 10. PROTECTION AGAINST FRAUD. Any person who shall knowingly make any false statement or shall falsify or permit to be falsified any record or records of this retirement system in any attempt to defraud such system as a result of such act shall be guilty of a misdemeanor, and on conviction thereof by any court of competent jurisdiction, shall be punished by a fine not exceeding five hundred dollars (\$500.00), or imprisonment not exceeding twelve months, or both such fine and imprisonment at the

discretion of the court. Should any change or error in the records result in any member or beneficiary receiving from the retirement system more or less than he would have been entitled to receive had the records been correct, the Board of Control shall correct such error, and as far as practicable shall adjust the payment in such a manner that the actuarial equivalent of the benefit to which such member or beneficiary was correctly entitled shall be paid.

Section 11. **LIMITATION ON MEMBERSHIP.** No other provision of law in any other statute which provides wholly or partly at the expense of the State of Alabama or of any political subdivision thereof for pensions or retirement benefits for teachers of the said State, shall apply to members of the retirement system established by this act.

Section 12. If any section or part of any section of this act is declared to be unconstitutional, the remainder of the act shall not thereby be invalidated. All laws, parts of laws, general, special or private, in conflict with the provisions of this act shall be and the same are hereby repealed. This act shall take effect upon its approval by the Governor.

Approved September 15, 1939.

No. 426)

(S. 470—Malone

AN ACT

To propose an amendment to the Constitution of Alabama, authorizing the issuance of not exceeding \$900,000 of bonds for the purpose of paying or retiring certain bonds of Alabama Bridge Commission (any Agency of the State of Alabama) which were issued to finance the construction of a bridge across the Tennessee River between Lauderdale and Colbert Counties, and which were outstanding on July 1, 1939, and for the purpose of making said bridge open to the use of the public without the payment of any toll or fee, and to order an election by the qualified electors of the State of Alabama on such proposed amendment to be held at the general election next succeeding the present session of the Legislature.

Be it Enacted by the Legislature of Alabama:

Section 1. The following amendment to the Constitution of Alabama is hereby proposed to be submitted to the qualified electors of the State of Alabama at an election to be held at the general election next succeeding the present session of the Legislature: The State of Alabama is hereby authorized to issue not exceeding \$900,000 aggregate principal amount of bonds for the purpose of paying or retiring prior to maturity, the bonds of Alabama Bridge Commission (an Agency of the State of Alabama) which were outstanding on July 1, 1939. Said bonds shall be general obligations of the State of Alabama, to the prompt payment of the principal of

and interest on which the full faith and credit and taxing power of the State are hereby irrevocably pledged, and all of said bonds, together with any other bonds of the State providing for a pledge of said gasoline excise tax which may be authorized by constitutional amendment ratified on the same day as this amendment is ratified shall be additionally secured, without priority of one bond over another, by a pledge of the proceeds of the gasoline excise tax, authorized to be pledged to the highway bonds provided for in the amendment to the constitution known as Article XX-A, subject, however, to the prior pledge of said gasoline tax to said highway bonds. The bonds hereby authorized shall bear interest at not exceeding three per centum (3%) per annum, payable semi-annually, and shall be sold at not less than the par value thereof. Said bonds and the interest thereon shall be forever exempt from taxes of every kind. Said bonds shall be issued at such time or times, in such denominations and series and shall mature at such times, not later, however, than fifteen (15) years from the date of issuance, and shall have such other terms and conditions as may be provided by law.

Section 2. Notice of the election hereby ordered, together with the amendment hereby proposed shall be given by proclamation of the Governor, which shall be published in one newspaper once a week in every county in the State, for at least four successive weeks, next preceding the day hereby appointed for such elections.

Section 3. At the election hereby ordered to be held as herein provided, the qualified electors shall vote on such proposed amendment; and on the official ballot provided for such election there shall be printed the following, viz: "Shall the following be adopted as an amendment to the Constitution of Alabama? The State of Alabama is hereby authorized to issue not exceeding \$900,000 aggregate principal amount of bonds for the purpose of paying or retiring prior to maturity, the bonds of Alabama Bridge Commission (an Agency of the State of Alabama) which were outstanding on July 1, 1939. Said bonds shall be general obligations of the State of Alabama, to the prompt payment of the principal of and interest on which the full faith and credit and taxing power of the State are hereby irrevocably pledged, and all of said bonds, together with any other bonds of the State providing for a pledge of said gasoline excise tax which may be authorized by constitutional amendment ratified on the same day as this amendment is ratified shall be additionally secured, without priority of one bond over another, by a pledge of the proceeds of the gasoline excise tax, authorized to be pledged to the highway bonds provided for in the amendment to the constitution known as Article XX-A, subject, however, to the prior pledge of said gasoline tax to said highway bonds. The bonds hereby authorized shall bear interest at not exceeding three per centum (3%) per annum, payable semi-annually, and shall be

sold at not less than the par value thereof. Said bonds and the interest thereon shall be forever exempt from taxes of every kind. Said bonds shall be issued at such time or times, in such denominations and series and shall mature at such times, not later, however, than fifteen (15) years from the date of issuance, and shall have such other terms and conditions as may be provided by law." Following the proposed amendment on the ballot shall be printed the word "Yes" and immediately under that shall be printed the word "No." The choice of the elector shall be indicated by a cross mark by him beside the word expressing his desire.

Section 4. Officers to hold such election shall be the same as those appointed to hold said general election, and such officers shall open a poll for the vote of the qualified electors upon such proposed amendment. The votes cast at such election shall be canvassed, tabulated and returns thereof shall be made to the Secretary of State and counted, in the same manner as in elections for representatives in the Legislature; and if it shall thereupon appear that a majority of the qualified electors who voted at such election upon such proposed amendment voted in favor of the same, such amendment shall be valid to all intents and purposes as a part of the Constitution of the State of Alabama. The result of such election shall be made known by a proclamation of the Governor.

Passed by the Senate as amended August 31, 1939

Passed by the House of Representatives September 12, 1939

No. 428)

(S. 474—Malone

AN ACT

To propose an amendment to the Constitution of Alabama (1) authorizing the issuance of not exceeding \$5,000,000 of bonds for the purpose of refunding certain bonds of the Alabama State Bridge Corporation and the Alabama Bridge Authority, Incorporated, outstanding on July 1, 1939, (2) authorizing the Governor to negotiate certain temporary loans in addition to those authorized by Section 213 of the Constitution, as amended, in anticipation of the collection of taxes by the State, for the purpose of providing funds for the prompt payment of the expenses of the State government, and (3) prohibiting the incurring of obligations by agencies of the State, and to order an election by the qualified electors of the State of Alabama on such proposed amendment to be held at the general election next succeeding the present session of the Legislature.

Be it Enacted by the Legislature of Alabama:

Section 1. The following amendment to the Constitution of Alabama is hereby proposed to be submitted to the qualified electors of the State of Alabama at an election to be held at the general election next succeeding the present session of the Legislature: The State of Alabama is hereby authorized to issue not exceeding

\$5,000,000 aggregate principal amount of bonds for the purpose of paying or retiring prior to maturity, the bonds of the Alabama State Bridge Corporation and the bonds of the Alabama Bridge Authority, Incorporated, which were outstanding on July 1, 1939. Said bonds shall be general obligations of the State of Alabama, to the prompt payment of the principal of and interest on which the full faith and credit and taxing power of the State are hereby irrevocably pledged, and all of said bonds, together with any other bonds of the State providing for a pledge of said gasoline excise tax which may be authorized by constitutional amendment ratified on the same day as this amendment is ratified shall be additionally secured, without priority of one bond over another, by a pledge of the proceeds of the gasoline excise tax, authorized to be pledged to the highway bonds provided for in the amendment to the constitution known as Article XX - A, subject, however, to the prior pledge of said gasoline tax to said highway bonds. The bonds hereby authorized shall bear interest at not exceeding three per centum (3%) per annum, payable semi-annually, and shall be sold at not less than the par value thereof. Said bonds and the interest thereon shall be forever exempt from taxes of every kind. Said bonds shall be issued at such time or times, in such denominations and series and shall mature at such times, not later, however, than fifteen (15) years from the date of issuance, and shall have such other terms and conditions as may be provided by law. In addition to temporary loans authorized by Section 213 of the Constitution, as amended, the Governor without further authority is hereby authorized to issue and sell at advertised public sale during any fiscal year, notes evidencing temporary loans for the purpose of providing funds for the payment of appropriations at the time or times when the funds appropriated are needed. The loans hereby authorized shall, however, be made only in anticipation of the collection of taxes payable during such fiscal year, and the total amount of such loans at any time outstanding shall never exceed thirty per centum (30%) of the estimated amount of uncollected taxes for such fiscal year. The uncollected taxes for such fiscal year shall be estimated by deducting the taxes thus far collected and by deducting the taxes pledged for bonds and interest thereon maturing during that fiscal year from the annual average of the total taxes of the State collected during the preceding three fiscal years as certified by the State Treasurer. Such temporary loans may be evidenced by a negotiable promissory note or notes of the State and shall be due and payable within the fiscal year in which negotiated and may be renewed or extended but shall not be renewed or extended beyond that fiscal year. Both the principal of and interest on said note or notes shall be payable from and secured by a lien upon the taxes in anticipation of the collection of which they shall have been issued and shall also be general obligations of the State of Alabama; and the full faith and

credit and taxing power of the State are hereby irrevocably pledged to the payment thereof. Said notes and the interest thereon shall be forever exempt from taxes of every kind. The State shall not, directly or indirectly, absolutely or contingently, contract or incur any indebtedness or other obligation except as provided in this Constitution, and no department, board, bureau, commission, agency, institution or office of the State and no public corporation or authority shall ever, directly or indirectly, absolutely or contingently, incur any debt or other obligation payable from or secured by a pledge of any appropriation or any State funds or any other funds, revenue or income over which the State has any control or issue any warrant or order thereon until such funds, revenues or income shall have been appropriated and collected or anticipated by temporary loans as herein above provided. Any such debt or obligation of the State and any such debt or obligation or warrant or order of any such department, board, bureau, commission, agency, institution, office, public corporation or authority, shall be void and unenforceable; and no State funds and no funds, revenue or income over which the State has any control shall ever be appropriated or used, directly or indirectly, to pay the principal thereof or the interest thereon. Any appropriation for any such purpose shall be void.

Section 2. Notice of the election hereby ordered, together with the amendment hereby proposed shall be given by proclamation of the Governor, which shall be published in one newspaper once a week in every county in the State, for at least four successive weeks, next preceding the day hereby appointed for such election.

Section 3. At the election hereby ordered to be held as herein provided, the qualified electors shall vote on such proposed amendment; and on the official ballot provided for such election there shall be printed the following, viz: "Shall the following be adopted as an amendment to the Constitution of Alabama? The State of Alabama is hereby authorized to issue not exceeding \$5,000,000 aggregate principal amount of bonds for the purpose of paying or retiring prior to maturity, the bonds of the Alabama State Bridge Corporation and the bonds of the Alabama Bridge Authority, Incorporated, which were outstanding on July 1, 1939. Said bonds shall be general obligations of the State of Alabama, to the prompt payment of the principal of and interest on which the full faith and credit and taxing power of the State are hereby irrevocably pledged, and all of said bonds, together with any other bonds of the State providing for a pledge of said gasoline excise tax which may be authorized by constitutional amendment ratified on the same day as this amendment is ratified shall be additionally secured, without priority of one bond over another, by a pledge of the proceeds of the gasoline excise tax, authorized to be pledged to the highway bonds provided for in the amendment to the constitution known as

Article XX-A, subject, however, to the prior pledge of said gasoline tax to said highway bonds. The bonds hereby authorized shall bear interest at not exceeding three per centum (3%) per annum, payable semi-annually, and shall be sold at not less than the par value thereof. Said bonds and the interest thereon shall be forever exempt from taxes of every kind. Said bonds shall be issued at such time or times, in such denominations and series and shall mature at such times, not later, however, than fifteen (15) years from the date of issuance, and shall have such other terms and conditions as may be provided by law. In addition to temporary loans authorized by Section 213 of the Constitution, as amended, the Governor without further authority is hereby authorized to issue and sell at advertised public sale during any fiscal year, notes evidencing temporary loans for the purpose of providing funds for the payment of appropriations at the time or times when the funds appropriated are needed. The loans hereby authorized shall, however, be made only in anticipation of the collection of taxes payable during such fiscal year, and the total amount of such loans at any time outstanding shall never exceed thirty per centum (30%) of the estimated amount of uncollected taxes for such fiscal year. The uncollected taxes for such fiscal year shall be estimated by deducting the taxes thus far collected and by deducting the taxes pledged for bonds and interest thereon maturing during that fiscal year from the annual average of the total taxes of the State collected during the preceding three fiscal years as certified by the State Treasurer. Such temporary loans may be evidenced by a negotiable promissory note or notes of the State and shall be due and payable within the fiscal year in which negotiated and may be renewed or extended but shall not be renewed or extended beyond that fiscal year. Both the principal of and interest on said note or notes shall be payable from and secured by a lien upon the taxes in anticipation of the collection of which they shall have been issued and shall also be general obligations of the State of Alabama; and the full faith and credit and taxing power of the State are hereby irrevocably pledged to the payment thereof. Said notes and the interest thereon shall be forever exempt from taxes of every kind. The State shall not, directly or indirectly, absolutely or contingently, contract or incur any indebtedness or other obligation except as provided in this Constitution, and no department, board, bureau, commission, agency, institution or office of the State and no public corporation or authority shall ever, directly or indirectly, absolutely or contingently, incur any debt or other obligation payable from or secured by a pledge of any appropriation or any State funds or any other funds, revenue or income over which the State has any control or issue any warrant or order thereon until such funds, revenues, or income shall have been appropriated and collected or anticipated by temporary loans as herein above provided. Any such debt or obligation of the

State and any such debt or obligation or warrant or order of any such department, board, bureau, commission, agency, institution, office, public corporation or authority, shall be void and unenforceable; and no State funds and no funds, revenue or income over which the State has any control shall ever be appropriated or used, directly or indirectly, to pay the principal thereof or the interest thereon. Any appropriation for any such purpose shall be void. Following the proposed amendment on the ballot shall be printed the word "Yes" and immediately under that shall be printed the word "No". The choice of the elector shall be indicated by a cross mark by him beside the word expressing his desire.

Section 4. Officers to hold such election shall be the same as those appointed to hold said general election, and such officers shall open a poll for the vote of the qualified electors upon such proposed amendment. The votes cast at such election shall be canvassed, tabulated and returns thereon shall be made to the Secretary of State and counted, in the same manner as in elections for representatives in the Legislature; and if it shall thereupon appear that a majority of the qualified electors who voted at such election upon such proposed amendment voted in favor of the same, such amendment shall be valid to all intents and purposes as a part of the Constitution of the State of Alabama. The result of such election shall be made known by a proclamation of the Governor.

Passed by the Senate August 31, 1939

Passed by the House of Representatives September 12, 1939.

No. 432)

(S. 488—McCall

AN ACT

To submit to the qualified voters of the State of Alabama, at the General Election to be held in November, 1940, an Amendment to the Constitution of Alabama so as to authorize and empower the Legislature of Alabama, from time to time, by general or local laws to fix, alter and regulate the fees, commissions, allowances and salary, including the method or basis of the compensation to be charged or allowed to the Sheriff of Mobile County, Alabama, and to provide the method and basis of the compensation of such Sheriff of Mobile County; and whereby all Acts of the Regular Session of the Alabama Legislature of 1939 and 1939- 1940, heretofore or hereafter passed and applicable to or purporting to be applicable to such County, and fixing or purporting to fix the compensation of said Sheriff of Mobile County on a salary basis, are validated and confirmed.

Be it Enacted by the Legislature of Alabama:

Section 1. That the following amendment to the Constitution of Alabama is hereby proposed to be submitted to the qualified voters of the State of Alabama for their consideration as hereinafter set forth, viz: "The Legislature of Alabama may hereafter,

from time to time, by general or local laws fix, alter and regulate the fees, commissions, allowances and salaries to be charged or received by the Sheriff of Mobile County, and including the right to place said officer on a salary basis and provide that the fees, fines and forfeitures received or collected by said officer be paid into the treasury of Mobile County, Alabama, and to fix and provide the amount and method of compensation of such officer. All Acts of the Regular Session of the Legislature of 1939 and 1939-1940 heretofore passed and applicable, or purporting to be applicable to said Mobile County, and fixing, or purporting to fix the basis of compensation and compensation of said officer, or placing said officer on a salary basis, are hereby ratified and confirmed."

Section 2. That it shall be the duty of the Governor of Alabama to give notice by proclamation to be published in one newspaper in each county in the State of Alabama at least eight successive weeks next preceding the date of the election on the Amendment proposed by this Act to be submitted to the qualified voters of the State of Alabama for their consideration together with the proposed Amendment.

Section 3. That the General Elections to be held in Alabama in November, 1940, the proposed Amendment shall be submitted to the qualified voters of the State of Alabama. Upon the ballots used at said election shall be printed the following, by: "Shall the following be adopted as an amendment to the Constitution of Alabama?" The Legislature of Alabama may hereafter, from time to time, by general or local laws fix, alter, and regulate the fees, commissions, allowances and salaries to be charged or received by the Sheriff of Mobile County, and including the right to place said officer on a salary basis and provide that the fees, fines and forfeitures received or collected by said officer be paid into the treasury of Mobile County, Alabama, and to fix and provide the amount and method of compensation of such officer. All Acts of the Regular Session of the Legislature of 1939 and 1939-1940 heretofore passed and applicable, or purporting to be applicable to said Mobile County, and fixing, or purporting to fix the basis of compensation and compensation of said officer, or placing said officer on a salary basis, are hereby ratified and confirmed." Yes..... No..... The choice of the elector shall be indicated by a cross mark by him or her opposite the word expressing his or her choice.

Section IV. The Election Officers at such election shall provide a balloting place for the vote of the qualified electors upon the proposed amendment. The election shall be held in all things in accordance with the law governing general elections. At the election upon the proposed amendment the votes cast thereat shall be canvassed, tabulated and the returns thereof be made to the Secretary of State and counted in the same manner as in elections for Representatives to the Legislature of Alabama, and if it shall ap-

pear thereupon that a majority of the qualified electors who voted upon the proposed amendment voted, in favor of same, such amendment shall be valid to all intents and purposes as a part of the Constitution of the State of Alabama. The result of such election shall be made known by the proclamation of the Governor of Alabama.

Passed by the Senate September 5, 1939.

Passed by the House of Representatives September 12, 1939.

No. 434)

(S. 178—Clayton)

AN ACT

To fix the salary of the Clerk of the Court of Appeals of Alabama.

Be it Enacted by the Legislature of Alabama:

Section 1. That the salary of the Clerk of the Court of Appeals, of Alabama shall be Three Thousand Dollars per annum, which salary shall be payable in equal monthly installments as the salaries of other state officers are paid, and there is hereby appropriated out of the State Treasury the sum of Three Thousand Dollars per annum for the payment of the salary of the Clerk of the Court of Appeals of Alabama.

Section 2. That this act shall become effective immediately upon its passage and approval by the Governor or its otherwise becoming a law.

Approved September 13, 1939.

No. 435)

(S. 304—Young)

AN ACT

To further regulate and define the powers, functions and duties of the Director of the Department of Archives and History.

Be it Enacted by the Legislature of Alabama:

Section 1. That on and after the passage and approval of this act, the powers, functions and duties of the Director of the Department of Archives and History shall be as follows: 1. To control and direct the work and operations of the Department of Archives and History. 2. To administer the State official archives. 3. To prepare the Alabama Official and Statistical Register. 4. To diffuse knowledge in reference to the history and resources of the State. 5. To administer all military records for historical purposes. 6. To administer the State's historical library and to collect and administer historical portraits and museums. 7. To serve as Secretary of the Capitol Building Commission and the Alabama

Memorial Commission. 8. To be a member of the Alabama Pension Commission. 9. To collect, organize and preserve non-current county records for historical purposes. 10. To edit the Alabama Historical Quarterly and other historical publications. 11. To distribute State official reports. 12. To designate and describe historic spots in Alabama for monumental purposes. 13. To perform all duties necessary in connection with the administration of the Public Library Service Division. 14. To have custody and supervision, under the direction of the Director of Finance, of the Alabama Memorial Building. 15. To perform any and all other powers, functions and duties as may now or hereafter be placed upon the Director of the Department of Archives and History.

Section 2. That for the performance of the extra, new and additional duties imposed upon the Director of the Department of Archives and History by this Act, he shall receive an additional sum of \$900.00 per annum as compensation, in addition to the salary now provided by law, said additional amount to be paid out of the State Treasury as the salaries of other state officials are paid.

Section 3. That there is hereby appropriated annually out of the State Treasury a sum of money sufficient to pay the additional compensation herein provided for.

Section 4. That all laws and parts of laws, general, special or local, in conflict with the provisions of this act are hereby expressly repealed.

Section 5. That this act shall go into effect upon its passage and approval by the Governor or its otherwise becoming a law.

Approved September 15, 1939.

No. 439)

(S. 446—Young

AN ACT

To amend Section 6665 of the Code of Alabama, 1923, as amended by General Acts of 1931, page 265.

Be it Enacted by the Legislature of Alabama:

Section 1. That Section 6665 of the Code of Alabama, 1923, as amended by General Acts of 1931, page 265, be and the same is hereby amended to read as follows: "Section 6665. STATE DIVIDED INTO JUDICIAL CIRCUITS. The State of Alabama is hereby divided into judicial circuits for the circuit courts, which circuits are numbered and composed of the counties as follows: FIRST CIRCUIT—Choctaw, Clark and Washington. SECOND CIRCUIT—Butler, Crenshaw and Lowndes. THIRD CIRCUIT—Barbour, Bullock, Dale and Russell. FOURTH CIRCUIT—Bibb, Dallas, Hale, Perry and Wilcox. FIFTH CIRCUIT—Chambers, Lee, Macon, Randolph and Tallapoosa. SIXTH CIRCUIT—

Tuscaloosa. SEVENTH CIRCUIT—Calhoun, Cleburne and Talladega. EIGHTH CIRCUIT—Cullman, Lawrence, Limestone and Morgan. NINTH CIRCUIT—Cherokee, DeKalb, Jackson and Marshall. TENTH CIRCUIT—Jefferson. ELEVENTH CIRCUIT—Colbert, Franklin and Lauderdale. TWELFTH CIRCUIT—Coffee and Pike. THIRTEENTH CIRCUIT—Mobile. FOURTEENTH CIRCUIT—Marion, Walker and Winston. FIFTEENTH CIRCUIT—Montgomery. SIXTEENTH CIRCUIT—Blount, Etowah and St. Clair. SEVENTEENTH CIRCUIT—Marengo, Greene and Sumter. EIGHTEENTH CIRCUIT—Clay, Coosa and Shelby. NINETEENTH CIRCUIT—Autauga, Chilton and Elmore. TWENTIETH CIRCUIT—Henry and Houston. TWENTY-FIRST CIRCUIT—Baldwin, Conecuh, Escambia and Monroe. TWENTY-SECOND CIRCUIT—Covington and Geneva. TWENTY-THIRD CIRCUIT—Madison. TWENTY-FOURTH CIRCUIT—Fayette, Lamar and Pickens.

Section 2. All laws or parts of laws in conflict herewith are hereby repealed.

Section 3. That this Act shall take effect immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 16, 1939.

No. 440)

(H. 218—Jenkins

AN ACT

To amend Sections 3, 4, and 5 of an Act, entitled: "An Act to create a State Toxicologist, to fix the duties and compensations of such Toxicologist, and to make an appropriation to carry out the provisions of this Act." Approved July 19, 1935.

Be it Enacted by the Legislature of Alabama:

Section 1. That Section 3, 4, and 5 of an Act, entitled: "An Act to create a State Toxicologist, to fix the duties and compensations of such Toxicologist, and to make an appropriation to carry out the provisions of this Act." Approved July 19, 1935, be and the same is hereby amended so as to read as follows: "Section 3. The duties of the State Toxicologist shall be to make such investigations of deaths and crimes as are ordered by the Governor, the Attorney General, any Circuit Judge, or any Circuit Solicitor in the State of Alabama; and the State Toxicologist shall cooperate with the Coroners, Sheriffs and other Police Officers in Alabama in their investigations of crimes and deaths from unnatural causes; and the State Toxicologist shall within his discretion visit the scene of any crime in the State for the purpose of securing evidence for the State. It shall be the further duty of the State Toxicologist to

cooperate with the Commissioner of Agriculture and Industries and the State Veterinarian in their investigations of deaths of domestic animals in cases of suspected criminal poisoning of such animals. The State Toxicologist shall perform such other duties as are prescribed by the Governor or the Attorney General of Alabama. The State Toxicologist and his designated assistants shall exercise the same police authority as any deputy sheriff or highway patrolman in the State of Alabama. "Section 4. The State Toxicologist shall maintain an office, and a laboratory for the scientific investigation of crime, at Auburn, Alabama, and shall be furnished adequate quarters by the Alabama Polytechnic Institute for the conduct of his office and laboratories. The State Toxicologist with the approval of the Attorney General, shall maintain such other offices and laboratories in this State as are necessary to carry out the provisions of this Act. "Section 5. The compensation of the State Toxicologist shall be Four Thousand Dollars per annum, such salary to be payable monthly by warrants drawn on the State Treasurer by the State Toxicologist. The State Toxicologist shall be furnished with an office and laboratory at the expense of the State, and shall also be allowed all necessary expenses for the equipment and conduct of his office and laboratory, including stenographic and laboratory assistance, and such expenses as may be incurred from traveling within or without the State for the purpose of carrying out the provisions of this Act. Such expenses are to be paid by warrants approved by the Governor."

Section 2. That this Act shall take effect immediately upon its passage and approval by the Governor.

Approved September 21, 1939.

No. 441)

(H. 259—Brown of Covington

AN ACT

To increase the duties of the State Superintendent of Education and to provide additional compensation therefor.

Be it Enacted by the Legislature of Alabama:

Section 1. That in addition to all other duties now prescribed by law to be performed by the State Superintendent of Education, he is hereby required to perform the following additional duties: (a) To make an inventory of all school buildings and sites and to keep a continuous inventory of the same thereafter. (b) To cooperate with county and city boards of education in securing Federal grants to assist in school building construction by making special studies of school building needs on request of local school

authorities and making the same available to the proper Federal agencies. (c) To make special studies presenting the need of public education in Alabama for general Federal aid for the support of the public schools and to make the same available to appropriate Federal agencies.

Section 2. For the performance of the extra, new and additional duties imposed on the State Superintendent of Education by the provisions of this Act, he shall receive an additional Six Hundred Dollars (\$600.00) per annum as compensation, in addition to the salary now provided by law, said additional Six Hundred Dollars (\$600.00) to be paid as the salaries of other state officers are paid and there is hereby appropriated out of the State Treasury for the payment of the additional compensation herein provided for, the sum of Six Hundred Dollars (\$600.00) per annum.

Section 3. That all laws and parts of laws in conflict with the provisions of this act are hereby repealed.

Section 4. That this act shall take effect immediately upon its passage and approval by the Governor or its otherwise becoming a law.

Approved September 15, 1939.

No. 443)

(H. 408—Beck

AN ACT

To amend Article 34 of the Agricultural Code of Alabama of 1927, as amended by Acts, 1931, page 844, and by Acts, 1935, pages 12, 21 and 192.

Be it Enacted by the Legislature of Alabama:

Section 1. That Article 34 of the Agricultural Code of Alabama of 1927, as the same heretofore has been amended by Acts, 1931, page 844, and by Acts, 1935, pages 12 (20-23) and as amended by Acts 1935, page 192, be and the same is hereby amended to read as follows: Section 388. PUBLIC WAREHOUSES.—All buildings, structures or other protected enclosures used for the storage of cotton or other articles of value for the public, for compensation or without compensation, and all buildings, structures or other protected enclosures for the storage of cotton or other articles of value where a statements is issued acknowledging the receipt of the article of goods stored, and undertaking to deliver the same, are hereby declared to be public warehouses. All such warehouses shall be under the supervision of the Commissioner of Agriculture and Industries, whose duty it shall be to enforce the requirements of the law and the rules and regulations promulgated by the State Board of Agriculture and Industries, relative to public warehouses. Section 389. STANDARDS FOR WAREHOUSES.—The State

Board of Agriculture and Industries shall have authority to provide the standards as to the suitability or adequacy for the purpose for which it is used or intended, of any warehouse building, structure or protected enclosure used for the storage of cotton or other articles of value; to prescribe the character of records and to promulgate such other rules and regulations relative to the conduct of the business of a public warehouse and such as are necessary to effect the purposes of this Article. Section 390. LICENSE TO CONDUCT PUBLIC WAREHOUSE.—The Judge of Probate of the county shall have no authority to issue a license permitting any one to transact business as a public warehouseman unless such person presents to the Judge of Probate a permit to transact such business issued by the Commissioner and showing that he has complied with all the provisions of the law and rules and regulations promulgated by the State Board of Agriculture and Industries relative to public warehouses. Any person desiring to operate a public warehouse shall file with the Commissioner, upon forms prescribed by him, a written application verified by affidavit, which shall set forth the location and the name of such warehouse, the name of each person interested as owner or principal in the management of the same, or, if it be managed or controlled by a corporation, the names of the President, Secretary and Treasurer of such corporation shall be stated, together with the location of the principal office of such corporation. Such application shall also state the character of goods or articles for the storage of which public warehouse will be operated, and the estimated value of articles stored in such warehouse at the time, during the preceding twelve months, when the value of the articles stored was the greatest. In the event cotton is stored in said warehouse said verified application shall also state the number of bales of cotton stored therein during the twelve months next preceding the date of the application. Where no business has been done during the previous year, application must state an estimate of the value of the articles which it is anticipated will be stored during the first year in said warehouse. Such application shall also show what persons is authorized to sign receipts for said warehouse. A filing fee of \$5.00 shall accompany said application, which shall accrue to the credit of the Agricultural Fund, to be used in defraying the expenses of executing the provisions of this Article. And the Commissioner may issue a permit to a Federally Bonded Warehouse upon the payment of the fee of Five (\$5.00) Dollars without the filing of any bond with the State. Section 391. APPLICATION FOR LICENSE.—Upon the filing of an application with the Commissioner to secure a permit for the operation of a public warehouse, the Commissioner, or his duly authorized agent, shall make such investigation as necessary to ascertain whether or not the

statements contained in such application are true and correct, whether or not the building, structure or protected enclosure is reasonably suited or adequate for the purpose for which it is intended to be used, and whether or not there has been a compliance with all conditions as required by the law and the rules and regulations of the State Board of Agriculture and Industries relative to public warehouses. The Commissioner may investigate and consider the responsibility, the reliability and qualifications, as well as the capacity of the person or persons filing with him an application for a permit to operate a public warehouse, both with reference to the person or persons applying for such permit and the person who is shown in said application as the person authorized to sign receipts for said warehouse. Section 392. **NOTICE OF DISPOSITION OF APPLICATION.**—The Commissioner shall promptly notify any person applying for a permit to operate a public warehouse whether or not such application has been granted. In the event the Commissioner refuses to grant such permit, the applicant may give written notice, by filing the same with the chief clerk of the Department of Agriculture and Industries, that he appeals from the decision of the Commissioner to the State Board of Agriculture and Industries. Such appeal must be heard at the next meeting of the State Board of Agriculture and Industries, at which time the Board shall investigate the facts and hear from both the Commissioner, or his duly authorized agent, and the applicant, and after due consideration enter a written finding determining whether or not such permit should be issued, and spread the same upon the Minutes of the Board. From the findings of such Board, an appeal lies to the Circuit Court of Montgomery County. In the trial in the Circuit Court, the order of the Board shall be presumed to be correct and the burden shall be upon the applicant to show to the satisfaction of the Court beyond a reasonable doubt that he is entitled to be permitted to engage in the operation of a public warehouse under the laws and rules and regulations relating to same. Section 393. **BOND REQUIRED OF WAREHOUSEMEN.**—In the event the Commissioner decides that such permit to operate a warehouse should be issued, he shall fix the amount of the bond which shall be furnished by said applicant and approved by the Commissioner prior to the issuance of said permit. Said bond shall be made with some surety company that has complied with the laws of the State of Alabama, and which has a reputation for promptly settling claims upon their merits, and shall be payable to the State of Alabama in such sum as the Commissioner may fix, but in no event to be less than Five Thousand (\$5,000.00) Dollars. Said bond shall be conditioned upon the faithful performance of his, or its duties as a public warehouseman for the period covered by said permit and for a faithful compliance with all laws, rules

and regulations relating to the operation of a public warehouse. The Commissioner of Agriculture may require the filing of additional bonds at any time by the warehousemen should the public interest demand and the failure to file any such additional bonds, within the time to be fixed by the Commissioner, shall be sufficient cause for revoking the permit issued such warehouse. Section 394. **EXTRA CONDITION OF BOND.**—The bond required of an applicant for permit to operate a public warehouse shall also undertake to pay to the State of Alabama all expenses of any successful litigation which the State institutes to compel a compliance with the laws and rules and regulations relative to public warehouses. Any person aggrieved because of the negligent conduct of any public warehouseman may sue on said bond in his own name for a breach thereof until the penalty is exhausted. In the event the penalty is exhausted, the Commissioner shall require the filing of an additional bond, or revoke the permit heretofore issued. Section 395. **ISSUANCE OF PERMIT.**—Upon the filing and approval of such bond with the Commissioner, the Commissioner must issue a permit which will authorize said applicant to operate a public warehouse at the place, building, structure or enclosure named in said application upon such applicant securing from the Probate Judge a license required by law to transact such business. Such permit shall not be issued for a longer period than one year, and shall expire on September 30th next after the issuance thereof. Section 396. **BOND RECORDED.**—Such bond shall be filed and recorded at the expense of the applicant by the Commissioner in the Probate Office of the county in which the warehouse is located. The Probate Judge shall receive for his service in recording said bond fifteen cents per hundred words. The Probate Judge shall not have authority to issue a license to operate a public warehouse until said bond is recorded and the applicant for said license files with him the permit issued by the Commissioner. Upon recording of said bond, it shall be returned to the custody of the Commissioner. Section 397. **INSPECTION OF WAREHOUSES.**—The Commissioner and his duly authorized agents or employees shall have full power and authority to inspect public warehouses, to audit the books thereof and to check the articles or goods stored with the records or receipts, and to exercise such other power relative to public warehouses as is necessary to ascertain whether or not the business is conducted in such a manner as to protect the interest of the persons who are storing, or may store, articles in such warehouse. The inspectors, when instructed by the Commissioner, shall make sworn reports to the Commissioner of their findings, within ten days after the completion of the work assigned, who shall hold and keep same in the records of his office. Such reports, when sworn to, shall be public records and shall be *prima facie*

evidence of what they charge. Such inspections shall be made at least twice between October 1st and September 30th in each fiscal year. There shall be no inspection fee for more than two inspections in one fiscal year. Section 398. INVESTIGATION OF COMPLAINT AGAINST WAREHOUSE.—Upon the filing of a complaint in writing by any person with the Commissioner, setting forth a violation of the laws or rules and regulations relating to the operation of a public warehouse, or setting forth that the warehouse building structure or protected enclosure is not reasonably suitable or adequate for the purpose for which it is used; or setting forth facts showing that there is a shortage of the articles which have been stored in said warehouse, or setting forth any other facts showing that the interests of the persons who have stored or who may store, articles in such warehouse are jeopardized, or are not properly safeguarded and protected; or where such facts are ascertained by the Commissioner by an investigation upon his own initiative or otherwise, the Commissioner must make investigation to ascertain whether or not the facts alleged in said complaint are true, or whether or not there is reasonable cause to believe said facts to be true. Section 399. HEARING BEFORE COMMISSIONER.—In the event the Commissioner is of the opinion that a condition exists which would jeopardize the interest of such persons patronizing, or who may patronize, a public warehouse by reason of the manner in which said public warehouse is being operated, or that the same is being operated without having complied with the laws or rules and regulations relating to the operation of public warehouses, he shall order a public hearing thereon, to be held in the office of the Commissioner at Montgomery, or at the courthouse of the county in which the said warehouse is being operated, to determine what action shall be taken relative to the said warehouse. It shall be the duty of the Commissioner to give notice by registered mail addressed to the owners or operators of said public warehouse at least ten days prior to the date fixed for said hearing, of the time and place thereof. Upon said hearing the Commissioner shall hear sworn testimony of persons complaining as to the manner of the operation of said warehouse and of agents and employees of the Department of Agriculture and Industries who have made investigations into the manner of the operation thereof. He shall also hear sworn testimony of the owners and operators of said warehouse, if any is offered, and the sworn testimony of any persons which they may offer in refutation of the complaints and charges. The Commissioner in such cases shall have the authority to compel the attendance of witnesses by issuing subpoena signed by him, which subpoenas must be served by any lawful officer of the State of Alabama and due return made thereon as is provided by law for the procuring of testimony in suits at law in the circuit courts

of this State. Each witness so subpoenaed and attending upon such hearing shall be entitled to \$3.00 per day for each day of his attendance upon such hearing and five cents for each mile necessarily traveled in coming to and returning from said hearing. In the event that investigation results in a finding of the Commissioner that the said public warehouse is being operated in a manner in violation of the laws and regulations pertaining thereto, or in a manner which jeopardizes the interest of the persons patronizing the same, witnesses subpoenaed and attending on behalf of the said warehouse shall not be paid from public funds, but the witnesses attending on behalf of the complainant or on behalf of the Commissioner shall be paid from the funds of the Department of Agriculture and Industries in the State Treasury. In the event that the finding of the Commissioner shall determine that the public warehouse is being operated in compliance with law and regulations relating thereto, all witnesses appearing upon such hearing shall be paid from the funds of the Department of Agriculture and Industries. Section 400. EVIDENCE. POWER TO SECURE.—Upon such hearing the Commissioner shall have authority to administer oaths to witnesses, and to compel the production of books and records necessary to a determination of the issue involved in said cause by the issuance or subpoena duces tecum and all other necessary process. The public warehouse involved and the owners and operators thereof may appear in person or by counsel and shall have the benefit of compulsory process for the attendance of its witnesses. Wilful failure to obey the process issued to witnesses by the Commissioner shall be punishable as in cases of failure to obey the process issued out of the circuit courts of this State. In such cases the Commissioner shall certify to the Judge of the circuit court having jurisdiction at the place of the Commissioner's hearing the fact of wilful disobedience of his subpoena and thereupon the Judge of the circuit court shall cause the defaulting witness to appear before him upon a date fixed, to show cause why he should not be adjudged in contempt for the wilful failure to obey the process issued by the Commissioner as hereinabove provided, and upon determination of wilful disobedience of such process shall enter judgment and impose punishment as in cases of contempt of the circuit court. In the conduct of said hearing the Commissioner shall not be bound by the strict rules of evidence prevailing in the courts of the State. Section 401. WHEN COMMISSIONER MAY TAKE CHARGE: RECEIVERSHIP UNDER DIRECTION OF COURT.—In the event that the Commissioner, upon such hearing, finds and determines that said public warehouse is being operated in violation of law and regulations, and in jeopardy of the public interest, he shall thereupon revoke the permit to operate such public warehouse and he may, in his discretion, take charge of the operation of the

said warehouse for the purpose of liquidating the same, under the direction of the circuit court, sitting in equity, having jurisdiction at the place of the operation thereof, and to operate same, under the direction of the court, for such time as may be necessary to protect the public interest and/or to compel compliance with the laws and regulations relating to the operation of public warehouses. Upon taking charge thereof, the Commissioner shall appoint in writing, under his hand and official seal, an agent to assist him in the duty of liquidation and distribution of the assets of any public warehouse taken possession of by him under the provisions of this Article, and the Commissioner may authorize such agent to perform such duties connected with such liquidation and distribution as the Commissioner himself could in person do and perform. The Commissioner forthwith shall cause to be addressed to the circuit court, sitting in equity, of the county in which said warehouse is located, a petition for receivership and liquidation thereof, setting forth the full facts upon which his action in taking charge of said warehouse is based, and praying that the court take jurisdiction and order the liquidation of such public warehouse and the collection of its assets and the distribution thereof and of the property therein stored to its creditors and to claimants of such property so stored therein in such manner as will best serve the public interest. The court shall fix a date for hearing thereof not less than ten days from the date of presentation, and shall order that in the interim between the filing of the petition and the final determination of the matter of liquidation thereof, that the said warehouse shall be under the direction of the Commissioner and/or the agents appointed by him to assist therein. (b) If upon final hearing thereof the court determines that the said warehouse is not being operated in such manner as is violative of laws and regulations pertaining thereto or in a manner which jeopardizes the public interest, an order shall thereupon be made and entered dismissing the petition and directing the return of the control and operation of the said warehouse to the owners and operators thereof. In the event, however, that the court determines that the said warehouse is being operated in violation of law and regulations pertaining thereto or in jeopardy of the public interest, an order shall be made and entered appointing the Commissioner as liquidating agent thereof and directing the operation of the said warehouse by the Commissioner and his designated agents under the direction of the court so long as may be necessary, for the purpose of the collection of the assets of said warehouse and the distribution thereof to the creditors thereof and for the protection and distribution of the property therein stored to the owners thereof. The court may provide for the compensation of the liquidating agent and of the employees necessary in the operation thereof, for the employment of counsel, and the payment

of other expenses necessary to the operation of the warehouse during the period of receivership, and cause the same to be paid from the assets of the said public warehouse, as a prior charge thereon. The court shall also cause notice to be given by publication of the receivership of said public warehouse and that claims of creditors and bailors of property therein stored shall be presented to the designated liquidating agent within such time as the court may fix not less than six nor more than twelve months after the date of the completion of the publication. (c) If the Commissioner doubts the justice and validity of any claims of creditors or of bailors, he may reject the same and serve notice of such rejection upon the creditor or bailor, either by mail or personally, and an affidavit of service of such notice which shall be prima facie evidence thereof, shall be filed in the office of the liquidating agent and a copy thereof shall be filed in the office of the Commissioner. An action upon a claim so rejected must be brought by petition to the court having jurisdiction of the affairs of the public warehouse by the creditor or bailor within six months after such service or the same shall be barred. Claims presented and allowed after the expiration of the time fixed in the notice to creditors and bailors shall be entitled to share in the distribution only to the extent of the assets in the hands of the Commissioner at the time such claims are filed without allowance for prior distributions. (d) The Commissioner shall have authority, for and in the name of the public warehouse in liquidation, to collect the assets of said public warehouse and to initiate and prosecute litigation for the collection thereof. (e) At any time after the expiration of the date fixed for the presentation of claims, the Commissioner may petition the court for direction as to distribution of assets then in his hands, and he shall make distribution as directed by the court. After one year from the expiration of the date fixed for the presentation of claims, the court shall order final distribution to creditors and bailors unless the time thereof shall have been extended by the court by order duly made and entered. (f) Whenever the Commissioner shall have paid all of the creditors and shall have satisfied the claims and demands of all the bailors of said public warehouse whose claims shall have been duly proven and allowed and shall have paid all of the expenses of the liquidation, he shall upon order of the court duly made and entered, deliver the remaining assets in his custody to the said public warehouse or the owners and operators thereof. (g) The property of bailors remaining in the hands of the Commissioner and/or the liquidating agent for a period of six months after the date fixed by the court for final distribution of assets shall be sold and converted into money, with a complete record of the proceeds of the property belonging to each separate bailor who has not claimed the same. The proceeds of such sales shall be covered by

him into the State Treasury to the credit of the Commissioner in trust for the several bailors of the liquidated public warehouse and the Commissioner may pay over the money so held by him in trust to the bailors entitled thereto upon being satisfied of their right to the same. In case of doubtful or conflicting claims to said proceeds, he may require an order from the court having jurisdiction of the liquidation of said warehouse authorizing and directing the payment thereof. All such funds remaining in his hands for a period of ten years after the date upon which he covered the same into the State Treasury shall become the property of the State, and shall be covered into the State Agricultural Fund. (h) Upon the finding of the Commissioner herein provided for that it is necessary to take charge of a public warehouse for liquidation thereof, he shall forthwith make full report thereof to the State Board of Agriculture and Industries which shall spread his findings upon the minutes of the said State Board of Agriculture and Industries; and at the conclusion of the liquidation of any warehouse of which the Commissioner has taken charge as herein provided, he shall forthwith make full report thereof to the State Board of Agriculture and Industries, who shall spread the same upon its minutes. Section 403. WAREHOUSE RECEIPT.—Every public warehouseman receiving property of any kind for safekeeping, must on delivery to him or it of such property, issue in favor of the person from whom received, a receipt therefor, which shall comply with the requirements of the laws of this State. Section 404. STORED IN THE OPEN.—Whenever any warehouseman accepts for storage any cotton or other article of value and keeps or stores the same where it is exposed to weather conditions, or in any place except within the warehouse, there shall be endorsed on the warehouse receipt given for such cotton or other article the words 'Stored In The Open' in such manner as may be prescribed by the rules and regulations promulgated by the State Board of Agriculture and Industries.

Section 405. PROPERTY STORED IN OPEN INSURED.—A warehouseman who stores cotton or other article in the open or in any place except in the warehouse shall keep the same insured against destruction or injury by fire, and shall be responsible and liable for all injury or damage suffered from the weather or any other cause by reason of said cotton or other article being stored in the open or in any other place except in the warehouse. Said warehouseman shall also have the same responsibility and liability for said cotton or other article as if the same was stored or kept in the warehouse. The warehouseman's bond shall also cover all duties and liabilities of a warehouseman imposed by this and the preceding Section. Section 406. INSURANCE OF COTTON.—The State Board of Agriculture and Industries shall have power

to require that all bales of cotton accepted for storage by a warehouseman other than cotton moving in transit to a compress to be compressed, shall be insured against destruction or injury by fire by such warehouseman, unless otherwise instructed in writing by the bailor. Section 407. FALSE STATEMENT IN APPLICATION.—Any person making a false material statement in an application filed under this Article to secure a permit to operate a public warehouse shall be guilty of perjury and upon conviction shall be punished as now provided by law for the commission of such offense. Any person operating a public warehouse without a permit as provided in this Article shall be subject to a penalty of not over One Thousand (\$1,000.00) Dollars, which may be collected in a civil action instituted at the instance of the Governor, the Attorney General or the Commissioner. All moneys received from the collection of such penalty shall accrue to the Agricultural Department Fund.

Section 2. SEVERABILITY.—Should any paragraph, sentence or part of this Act be held unconstitutional, it shall not effect any other paragraph, sentence or part of said act, the same shall remain in full force and effect.

Section 3. All laws and parts of laws in conflict with the provisions of this act are hereby repealed.

Section 4. This act shall become effective immediately upon its passage and approval by the Governor, or is otherwise enacted into law.

Approved September 15, 1939.

No. 444)

(H. 440—Jones

AN ACT

To authorize the State Highway Department of Alabama to acquire by gift, purchase, condemnation or otherwise such lands in fee simple and easements over such lands as are required by the United States Department of Interior for the development of that portion of the Natchez Trace Parkway traversing the State of Alabama, and to convey such lands so acquired and easements over such lands so acquired to the United States Government to be used by it for parkway and recreational purposes; to invest the State Highway Department with all the powers and authority necessary to acquire and convey such lands and easements over such lands for such purposes in such a manner as to meet the requirements of the laws of the United States of America and the rules and regulations of the United States Department of Interior in regard thereto; to provide the funds to be used in making such acquisition and conveyance; and to further provide that the authority herein given to the State Highway Department shall be confined to acquiring and conveying lands and easements over lands for that portion of the Natchez Trace Parkway traversing the State of Alabama only.

Be it Enacted by the Legislature of Alabama:

Section 1. That the State Highway Department of Alabama is hereby authorized to acquire by gift, purchase, or by the exercise of the right of eminent domain in condemnation proceedings, as is provided for under the laws of this State, or otherwise, such lands in fee simple or easements over such lands as are required by the United States Department of Interior for the development of that portion of the Natchez Trace Parkway traversing the State of Alabama, and to convey the same to the United States Government to be used for parkway and recreational purposes. It is understood that the general requirements of the United States Department of Interior for such purposes are an area in fee simple averaging one hundred acres per mile of road traversing the parkway plus an easement averaging fifty acres per mile, but that at no point shall the width of the area in fee simple be less than two hundred feet. Nothing herein shall be construed however, as limiting the width of land which the State Highway Department may acquire and convey in fee simple for such purposes, or the width of land over which it may acquire and convey easements for such purposes at any given point along that portion of the Natchez Trace Parkway traversing the State of Alabama, it being the purpose and intent of this act to invest the State Highway Department with authority to acquire and convey such lands in fee simple for such purposes and to acquire and convey easements over such lands for such purposes as is required by the United States Department of Interior.

Section 2. That the State Highway Department is further authorized and empowered to do all things necessary to acquire and convey such lands in fee simple, and to acquire and convey easements over such lands to the United States Government in such manner as to meet the requirements of the laws of the United States of America and the rules and regulations of the United States Department of Interior for lands for parkway purposes.

Section 3. That the cost of acquiring and conveying such lands in fee simple and of acquiring and conveying easements over such lands to the United States Government, and the cost of doing any and all things necessary to acquire and convey such lands in fee simple and to acquire and convey easements over such lands to the United States Government in such a manner as to comply with the laws of the United States of America and the rules and regulations of the United States Department of Interior shall be paid out of the funds of the State Highway Department as other expenses of said Department are paid.

Section 4. That the power and authority hereby given to the State Highway Department be and the same is hereby specifically limited to the acquisition and conveyance of such lands in fee simple and acquisition and conveyance of easements over such lands as shall be required for that portion of the Natchez Trace Park-

way traversing the State of Alabama, it not being the intention of this act to invest the State Highway Department with such power and authority to acquire and convey such lands or acquire and convey easements over such lands for any other purpose whatsoever.

Section 5. That all laws and parts of laws, general, special or local, in conflict herewith be and the same are hereby expressly repealed.

Section 6. That this act shall become effective upon its passage and approval by the Governor or its otherwise becoming a law.

Approved September 22, 1939.

No. 445)

(H. 491—McGowin

AN ACT

To provide that when the records and accounts of any officer, department, board, bureau, commission, institution, agency or public corporation of the State of Alabama, including county superintendents of education, county boards of education, and county custodian or treasurers of school funds, who or which does not receive all of his or its funds or revenues from the General Fund of the State of Alabama are examined and audited by the Department of Finance or any division thereof in the manner provided in the "Department of Finance Act of 1939," approved March 7, 1939, the cost of such examination and audit shall be a charge against the funds or revenues of the officer, department, board, bureau, commission, institution, agency or public corporation of the State of Alabama whose records and accounts are examined and audited; to define what is meant by cost of such examination and audit; and to provide the method and manner of the payment of same.

Be it Enacted by the Legislature of Alabama:

Section 1. That when the records and accounts of any officer, department, board, bureau, commission, institution, agency or public corporation of the State of Alabama, who or which does not receive all of his or its funds or revenues from the General Fund of the State of Alabama, are examined and audited by the Department of Finance or any Division thereof in the manner provided in the "Department of Finance Act of 1939," approved March 7, 1939, the cost of said examination and audit shall be a charge against the funds or revenues of the officer, department, board, bureau, commission, institution, agency or public corporation of the State of Alabama whose records and accounts or examined and audited.

Section 2. That the cost of such examination and audit, as herein used, shall mean the amount of the salaries and expenses of the officers or employees of the Department of Finance or any Division thereof making such examination and audit earned or incurred by them in making the same.

Section 3. That immediately upon the completion of any such

examination and audit, the Director of the Department of Finance or the Chief of the Division in charge of the same, shall present to the disbursing officer of the funds or revenues of the officer, department, board, bureau, commission, institution, agency or public corporation of the State of Alabama whose records and accounts have been examined and audited an itemized and sworn statement of the cost of such examination and audit, and the same shall constitute a preferred claim against the funds or revenues of said officer, department, board, bureau, commission, institution, agency or public corporation of the State of Alabama, and shall be forthwith paid. All moneys so paid shall be covered into the State Treasury as a revolving fund for the use and benefit of the Department of Finance or the Division thereof whose officers, or employees make such examination and audit.

Section 4. That all laws and parts of laws, general, special or local, in conflict with the provisions of this Act be and the same are hereby expressly repealed. Provided, however, nothing herein contained shall be construed to repeal the existing statutes relating to the proration of the costs of examinations of accounts in which the State and the counties and other political subdivisions of the State are jointly interested in the funds constituting the accounts examined.

Section 5. That this Act shall become effective immediately upon its passage and approval by the Governor or its otherwise becoming a law.

Approved September 15, 1939.

No. 446)

(H. 492—McGowin

AN ACT

To provide that when the records and accounts of any municipal corporation are examined and audited by the Department of Finance or any Division thereof in the manner provided in the "Department of Finance Act of 1939," approved March 7, 1939, the municipal corporations whose records and accounts are examined and audited shall reimburse the State for the amount of the salaries and expenses of the officers or employees of said Department or any Division thereof making such examination and audit earned or incurred by them in making the same; and to provide the method and manner of such reimbursement.

Be it Enacted by the Legislature of Alabama:

Section 1. That when the records and accounts of any municipal corporation are examined and audited by the Department of Finance or any Division thereof in the manner provided in the "Department of Finance Act of 1939", approved March 7, 1939, the municipal corporation whose records and accounts are examined and audited shall reimburse the State for the amount of the salaries

and expenses of the officers or employees of said Department or any Division thereof making such examination and audit earned or incurred by them in making the same.

Section 2. That immediately upon the completion of any such examination and audit, the Director of the Department of Finance or the Chief of the Division in charge of the same, shall present to the disbursing officer of the municipal corporation whose records and accounts have been examined and audited an itemized and sworn statement of the amounts due by such municipal corporation as reimbursement for the salaries and expenses earned or incurred by the officers or employees making such examination and audit in making the same, and the same shall constitute a preferred claim against the funds of said municipal corporation and shall be forthwith paid by it. All moneys so paid shall be covered into the State Treasury as a revolving fund for the use and benefit of the Department of Finance or the Division thereof whose officers or employees make such examination and audit.

Section 3. All laws and parts of laws, general, special or local, in conflict with the provisions of this Act be and the same are hereby expressly repealed.

Section 4. That this Act shall become effective immediately upon its passage and approval by the Governor or its otherwise becoming a law.

Approved September 15, 1939.

No. 447)

(H. 495—Norman of Bullock

AN ACT

To provide for the transfer of any surplus over and above \$1,150,000.00 in the State Treasury to the credit of the General Fund, after the payment of all appropriations now or hereafter made payable from said fund, for each of the fiscal years ending September 30, 1939, September 30, 1940, September 30, 1941, September 30, 1942 and September 30, 1943, to the Minimum Program Fund for expenditure during the fiscal year next succeeding the fiscal year in which said surplus accrues, in accordance with the statutes and regulations of the State Board of Education relating to the expenditure of such fund.

Be it Enacted by the Legislature of Alabama:

Section 1. That any surplus over and above \$1,150,000.00 in the State Treasury to the credit of the General Fund, after the payment of all appropriations now or hereafter made payable from said fund, for each of the fiscal years ending September 30, 1939, September 30, 1940, September 30, 1941, September 30, 1942 and September 30, 1943, shall be transferred to the Minimum Program Fund.

Section 2. That at the close of each of the fiscal years ending

September 30, 1939, September 30, 1940, September 30, 1941, September 30, 1942 and September 30, 1943, the Comptroller is authorized and required to draw his warrant for all moneys in the State Treasury to the credit of the General Fund over and above \$1,150,000.00, after the payment of all appropriations now or hereafter made payable from said fund, payable to the State Treasurer to be covered by him into the State Treasury to the credit of the Minimum Program Fund.

Section 3. That the moneys so transferred from the General Fund to the Minimum Program Fund shall be available for expenditure during the fiscal year next succeeding the fiscal year in which such surplus accrues, but must be expended in accordance with the statutes and regulations of the State Board of Education relating to the expenditure of such Minimum Program Fund.

Section 4. That all laws and parts of laws, general, special, or local, in conflict with the provisions of this Act are hereby expressly repealed.

Section 5. That this Act shall become effective immediately upon its passage and approval by the Governor or its otherwise becoming a law.

Approved September 21, 1939.

No. 448)

(H. 525—Hill

AN ACT

To amend Section 2837 of the Code of Alabama of 1923 to provide legal status for those diagnosing and treating only local ailments of the human foot and to provide the qualifications for and method of granting a certificate of qualification to such applicants as may qualify.

Be it Enacted by the Legislature of Alabama:-

Section 1. That Section 2837 of the Code of Alabama of 1923 be and the same is hereby amended to read as follows: An applicant for a certificate of qualification to treat diseases of human beings by any system of treatment whatsoever shall, according to rules prescribed by the Medical Association of the State of Alabama, be examined in writing, by the State Board of Medical Examiners, in the following named branches of medical learning, to-wit: chemistry, anatomy, physiology; etiology, pathology, symptomatology, and diagnosis of diseases; obstetrics and obstetrical operations, gynecology, major and minor surgery, physical diagnosis, diseases of the eye, ear, nose and throat; and hygiene and medical jurisprudence. All applicants coming before the board for examination, except as hereinafter specified, must present before registration, a diploma showing graduation from a medical college which requires at least two years of collegiate work including phy-

sics, chemistry and biology as a prerequisite for admission to that college of medicine. Said medical college must have an adequate number of full time teachers in the fundamental branches of the medical sciences,—anatomy, physiology, physiological chemistry, bacteriology and pathology. It must also have adequate laboratory facilities, a serviceable library and museum which are close by and accessible to the students and sufficient hospital and dispensary material conveniently located and under the control of the medical faculty. In the case of applicants who are graduates of schools of osteopathy, chiropractics or other schools of mechanotherapy, the above enumerated educational qualifications shall be waived. Such applicants shall not be examined in major surgery, therapeutics, nor methods of treatment. If said applicant shall obtain an average of seventy-five per cent in the branches set forth in the first sentence of this section, with the exception of major surgery, there shall be issued to said applicant a certificate which shall entitle the holder thereof to treat diseases of human beings by means of mechanotherapy according to the methods taught in the specific school, the teaching of which he proposes to practice, but shall not entitle him (or her) to practice major surgery or to prescribe or administer drugs. In the case of applicants who are to diagnose only local ailments of the human foot and to treat such ailments only locally, extending treatment no deeper than the true skin and using only local anesthetics in connection with such treatments, such applicants need possess only such qualifications and submit to such examinations only as, in the judgment of the State Board of Medical Examiners, are necessary for the protection of the public health, safety, and morals and as are prescribed by said Board in regulations duly promulgated. Said examinations shall embrace the anatomy and physiology of the foot; the diagnosis and treatment of diseases and ailments of the foot, asepsis, antiseptics, therapeutics and clinical chiropody. On proof of possessing such qualifications and on passing such an examination, either before the State Board of Medical Examiners or before an examiner or examiners appointed by it, and selected from the membership of the Alabama Association of Chiropodists to the satisfaction of said State Board of Medical Examiners, an applicant shall be licensed as a chiropodist and authorized to diagnose and treat local ailments of the human foot, but only by local treatment extending no deeper than the true skin and using only local anesthetics in connection with such treatment, all to be done in accordance with such rules as may be promulgated by the State Board of Medical Examiners to accomplish the ends aforesaid; and said Board is hereby vested with authority to promulgate such regulations and to do such other acts as may be necessary to carry this amendment into effect, including the revocation of a certificate of qualification to practice chiropody and the en-

forcement of all laws governing illegal practitioners of the healing art which are now or may hereafter be in force.

Section 2. That all laws and parts of laws in conflict herewith are hereby expressly repealed.

Section 3. That this Act shall become effective three months from the date of its approval by the Governor.

Approved September 21, 1939.

No. 449)

AN ACT

(H. 534—Miller)

To amend Section 1 of an Act entitled "An Act to Create a Board to be known as 'State Board of Adjustment'; to name its personnel; to define its duties and powers and to authorize said Board to certify its findings to the Comptroller for the payment of its awards, decrees and findings out of the fund herein provided for; to provide the basis of awards and decrees and to make appropriation therefor" approved September 14, 1935.

Be it Enacted by the Legislature of Alabama:

Section 1. That Section 1 of an Act entitled "An Act to create a Board to be known as 'State Board of Adjustment'; to name its personnel, to define its duties and powers and to authorize said Board to certify its findings to the comptroller for the payment of its awards, decrees and findings out of the fund herein provided for; to provide the basis of awards and decrees and to make appropriation therefor" approved September 14, 1935, be amended to read as follows: Section 1. There is hereby created a Board to be known as "The State Board of Adjustment" to be composed of the State Treasurer, the Secretary of State, and the Director of Finance. The Chairman of said Board shall be selected by the Board from its membership. The Secretary of State shall also be the Secretary of said Board, and shall perform all the duties, powers and functions required of the Secretary by the Board. For the performance of the extra, new and additional duties imposed upon the Secretary of State as Secretary of said Board by this Act he shall receive an additional Six Hundred and 00/100 (\$600.00) Dollars per annum as compensation, in addition to the salary now provided by law, to be paid out of the State Treasury in equal monthly installments, and there is hereby appropriated out of the State Treasury the sum of Six Hundred Dollars (\$600.00) per annum for the purpose of paying the additional compensation of the Secretary of State herein provided for. The Attorney General shall attend the meetings of the Board and represent the State of Alabama in all proceedings before said Board.

Section 2. This Act shall become effective immediately upon its passage and approval by the Governor, or its otherwise becoming a law.

Approved September 15, 1939.

No. 450)

(H. 550—Taylor

AN ACT

To further prescribe the powers, functions and duties of the office of the State Treasurer, to further provide for the administration thereof, to further regulate salaries and compensation of the State Treasurer and the employment in said office, and to make the necessary appropriation from the State Treasury to carry out the provisions of this Act.

Be it Enacted by the Legislature of Alabama:

Section 1. The powers, functions and duties of the State Treasurer shall be: 1. To receive all moneys due the State and deposit them in the proper accounts. 2. To perform the functions and duties now authorized by law with respect to State depositaries. 3. To pay all warrants duly executed by an authorized officer or employee in the Department of Finance, upon the determination that there is sufficient money for the payment thereof in the fund upon which they are drawn. No warrant executed by any other person shall be honored. All checks drawn on the State Funds shall be signed by the State Treasurer, or the chief clerk in the office and countersigned by the Special Assistant in the office of the State Treasurer, who is appointed by the State Treasurer with the approval of the Governor. Another employee may be designated by the State Treasurer with the approval of the Governor to countersign checks in the absence of the Special Assistant. No checks shall be honored unless so signed and countersigned. 4. To take receipts for all payments, to file such receipts and warrants, to number same in chronological order for each fiscal year, and to keep account of the receipts and expenditure of the public money. 5. To particularly enter in his books the amounts of money he receives for taxes, licenses, or on any other account of the State, so that the net receipts of the whole revenue as well as of every branch thereof and the amounts of disbursements shall distinctly appear. 6. To give information in writing to the Legislature or either house thereof or to the Governor when required, reporting all matters pertaining to his office. 7. To pay the principal and interest on the State debt and for the purpose of paying the interest on the bonded indebtedness of the State, it is his particular duty to conform in all respects to the requirements of the law as set forth in Sections 836 to 840 inclusive of the Code of Alabama, 1923. 8. To have the custody of and to keep safe all moneys, bonds and other securities held in any sinking fund for the payments of bonds of the State and to do and perform such other duties with reference to State Bonds and their redemption as are now, or may be, required by law and as are now particularly set forth in Sections 841 to 851 inclusive of the Code of 1923. 9. To have the custody of and to keep safe all moneys, bonds, mortgages and other securities re-

quired or permitted by law to be deposited with the State or any officer thereof, by any bank, trust, company, insurance company, mutual aid or benefit association, or other person or corporation, and also all securities held by the State, including those held for the account of any sinking fund (including those heretofore in the custody of the Sinking Fund Commission) and all official bonds of State officers and employees. All such moneys, bonds, mortgages, and other securities shall be guarded at all times by a bonded officer or employee while in the office of the State Treasurer, and shall, upon receipt, be deposited in a burglar-proof and fire-proof vault by the State Treasurer. Until the State shall have acquired an adequate burglar-proof and fire-proof vault, the combinations to which shall be known only to the State Treasurer and an adequately bonded employee, all such bonds, mortgages and other securities shall be kept in safety deposit boxes or vaults in one or more banks or trust companies approved for that purpose by the State Treasurer. In any event, however, whether any vault shall have been acquired by the State or not, when requested by any depositor, the State Treasurer may authorize the deposit of any money, bonds, mortgages, or other securities by such depositor with a bank or trust company in the State of Alabama to be held in its safety deposit boxes or vaults, which bank or trust company shall have been approved in advance by the State Treasurer and which shall have executed with the State Treasurer a contract with respect to the safe keeping of such money, bonds, mortgages or other securities, and the substitution therefor of other money, bonds, mortgages or other securities. Such contract shall be approved in writing by such depositor. Any charges in connection with such deposit shall be paid by such depositor. The State Treasurer shall not be personally liable for the loss of money, bonds, mortgages, or other securities so deposited if he shall have used reasonable precaution in approving such bank or trust company. The official bonds of State officers and employees shall be recorded by the Treasurer in well bound books provided for that purpose. 10. To execute an official bond in the sum of One Hundred Fifty Thousand Dollars to be approved by the Governor of the State and to be made, secured and insured by two or more qualified guarantee companies, which companies, have qualified to do business with the State. The premiums on said bond not to exceed Five Hundred Dollars are to be paid by the State out of the Fund appropriated hereby from the State Treasury. When, in the opinion of the Governor, it is considered necessary, the Treasurer shall be required to give an additional bond in such a sum as is determined by the Governor, the premium thereon to be paid from the State Treasury. 11. To serve as a member of the State Board of Adjustment and of the other boards and commissions of

which he is by law made a member. 12. To have access to all records and accounts relating to receipts and disbursements of the State Treasury in any other department, board, bureau, commission, agency or office of the State, to enable him the better to perform the functions and duties required of him by the Constitution and laws of the State and to protect himself in the performance of those functions and duties. 13. To make such reports as are required by the Constitution which reports shall, however, be printed and bound with and as a part of the annual financial report of the State prepared by the Department of Finance and to make such other reports as may be required by the Governor or the Legislature. 14. Should legislation be passed requiring the same, to pay salary warrants issued to State officers and employees semi-monthly and to pay Pension Warrants issued to Confederate Soldiers and Sailors and the Widows of Confederate Soldiers and Sailors monthly. 15. To furnish to the State Comptroller on or before the 10th of each month a list of all outstanding warrants existing at the end of the month next preceding and from the beginning of the fiscal year as shown by the records of the State Treasurer's office. 16. To take out security insurance for the safe keeping of bonds, robbery insurance, burglary insurance or such other insurance as may be deemed necessary for the safeguarding of money and security, the premiums thereon to be paid from the State Treasury. 17. To keep in a permanent record in the Treasurer's office the lists of Confederate Pensioners and pension warrants as prepared and issued by the State Auditor and the Welfare Department and Comptroller and not less than Five days before the first day of each month to furnish to the Welfare Department a list of all outstanding warrants. 18. To perform such other duties as are, or may be, by law required of him. Anything in this act to the contrary notwithstanding, all officers and employees in the office of the State Treasurer who would otherwise be subject to the provisions thereof, shall be subject to the provisions of the Merit System Act approved March 2, 1939.

Section 2. For the performance of the extra, new, and additional duties imposed on the State Treasurer by the provisions of this act, he shall receive an additional Six Hundred (\$600.00) per annum as compensation, in addition to the salary now provided by law, said additional Six Hundred Dollars (\$600.00) to be paid as the salaries of other state officers are paid and there is hereby appropriated out of the State Treasury for the payment of the additional compensation herein provided for, the sum of Six Hundred Dollars (\$600.00) per annum.

Section 3. The Treasurer shall have authority to incur such travel expense as may be deemed necessary in the discharge of the duties of his office, either by himself or other employees of his

office, reimbursement therefor to be made from the State Treasury, on accounts duly presented and approved by the Governor.

Section 4. The Governor shall exercise a general superintendence over the office of State Treasurer.

Section 5. That this Act shall become effective immediately upon its passage and approval by the Governor or its otherwise becoming a law.

Approved September 15, 1939.

No. 451)

(H. 554—Delony

AN ACT

To repeal Sections 474, 475, and 476 of Article 36 of the Agricultural Code of Alabama of 1927; and to amend the remaining Sections of said Article 36.

Be it Enacted by the Legislature of Alabama:

Section 1. That Sections 474, 475 and 476 of Article 36 of the Agricultural Code of Alabama of 1927, be and the same are hereby repealed.

Section 2. That the remaining Sections of said Article 36, beginning with Section 477, be and the same are hereby amended to read as follows: 477. Guaranteed Analysis. All pulverized limestone, marlor mixtures of same with inert materials, all phosphatic materials such as basic slag or other slags, dolomite superphosphate, limestone-superphosphate or other carbonate phosphate mixtures, nitrogen bearing materials and carbonate mixtures, phosphate rock and mixtures of phosphate rock with other materials, including so-called colloidal phosphate and colloidal phosphate mixtures of phosphate washings and clay and similar products, calcium carbonate bearing shells and other such materials sold for agricultural purposes in Alabama, shall have the analysis guaranteed by the manufactures. 478. Definitions. For the purpose of this Article, the term "person" shall include individuals, firms, partnerships and associations; the term "Cooperative" shall mean a cooperative marketing association incorporated under the "Cooperative-Marketing Act" or other laws of Alabama for the marketing of farm products and for other purposes. 479. Preparation. All these materials offered or exposed for sale to the farmers of Alabama for agricultural purposes shall be ground to a sufficient degree of fineness to meet the requirements of regulations adopted by the State Board of Agriculture and Industries for such materials. 480. Registration. All persons, cooperatives or importers of the above classified products who may desire to sell in Alabama such products shall first file or register with the Commissioner upon registration forms furnished by the said Commissioner, the name and address of

the manufacturer or other persons guaranteeing same; also, the brand name and common name of each of such products, together with the correct name of the material which they may desire to sell in Alabama, either by themselves or by their agents, together with the guaranteed analysis thereof as required by rulings established by the State Board of Agriculture and Industries, in the case of phosphate materials or phosphates, the minimum percentage of available phosphoric acid; in the case of calcium carbonates or calcium and magnesium carbonates or magnesium carbonates, the minimum percentage of magnesium oxide, the minimum percentage of calciumoxide or the minimum percentage of each of these oxides, and the total percentage of calcium carbonate equivalent, magnesium carbonate equivalent or both of the carbonate equivalents and the total acid insoluble material present. The several constituents shall be determined by the methods adopted by the association of Official Agricultural Chemists, Base forming materials may show their calcium carbonate equivalent and other information may be shown which is not prohibited by ruling of the State Board of Agriculture and Industries relating to these products. In no case shall a phosphate mixture have a guarantee of more than 10% available phosphoric acid or a nitrogen bearing material have a guarantee of more than 10% of nitrogen and be sold under this law. For the privilege of such registration the person, cooperative or importer so offering the same shall pay to the Commissioner at the time of offering the same for registration the sum of Three (\$3.00) Dollars for each brand or product registered, and no brand name or product shall be registered without the payment of said sum. The registration of all brands of such materials shall expire on September 30 with the close of the fiscal year for which they were registered. Brands or materials that were registered during the previous fiscal year shall be required to be re-registered before they can again be offered for sale in Alabama. 482. Materials Not Registered Cannot Be Sold. It shall be unlawful for any person, either by himself or his agents to sell in this State any of these materials that have not been registered with the Commissioner as required by this Article. 483. Commissioner May Prohibit Registration And Sale. The Commissioner shall have authority to prohibit the registration and sale of any of these materials with misleading or deceptive trademarks or brand names or carrying exaggerated claims or containing materials injurious to growing plants. 484. Branding Of Containers For These Materials. Every bag, package or barrel of these materials sold or distributed within this State shall have affixed thereto a tag or label bearing a legible and plainly printed statement in the English language, clearly and truly certifying the information required by rulings of the State Board of Agriculture and Industries relating to these materials.

485. **Samples: Analysis.** The Commissioner shall secure or cause to be secured samples of all of these materials offered for sale in the State of Alabama, said samples to be procured in the following manner; samples drawn with such an instrument as shall secure a core from the entire length of the package. In lots of less than ten packages from each sack, barrel or package, and from lots of ten packages or more, samples shall be taken from not less than ten packages, or if the said materials be in bulk, samples shall be taken from ten different places of the lot, and after thoroughly mixing the samples so drawn, he shall by the method known as quartering, draw from such thoroughly mixed samples, two sub-samples and with them fill two samples containers of not less than eight ounce capacity each, and shall plainly mark on each of said containers the number of said sample, said number to correspond with the record kept by the Commissioner in his office, giving the name of the material, the name and address of the manufacturer cooperative or importer, the guaranteed analysis, place where the samples were secured, the name of the party from whom the sample was taken, and the date of the sampling. One of the said samples shall be sent to the State Chemist who shall analyse it for the constituents designated by ruling of the State Board of Agriculture and Industries and report results of analysis to the Commissioner of Agriculture.

486. **Inspection Of Quarries, Plants, Etc.** The State Board of Agriculture and Industries is hereby authorized, empowered and directed to inspect any and all quarries, grinderies, and other places of manufacture, as well as any and all consignments of these materials sold in Alabama for Agricultural purposes, with a view to enforcing the provisions of this Article.

487. **Misdemeanor.** Any person who shall violate any provisions of this Article shall be guilty of a misdemeanor and upon conviction, shall be fined not less than Fifty (\$50.00) Dollars for each offense.

488. **Rules And Regulations.** The State Board of Agriculture and Industries is authorized to make such rules and regulations as are necessary to the execution of the provisions of this Article, except those relating to operations by the State Board of Administration, and to set up such additional standards and requirements as are necessary to protect the public in relation to the manufacture, sale and advertising of those materials.

Approved September 15, 1939

No. 452)

(H. 555—Robertson of Cullman

AN ACT

To further regulate and define the powers, functions and duties of the State Auditor, and to repeal all laws and parts of laws, general, special and local, in conflict herewith.

Be it Enacted by the Legislature of Alabama:

Section 1. That on and after the passage and approval of this Act, the powers, functions and duties of the State Auditor shall be those enumerated herein: (a) those enumerated in the Constitution; (b) those enumerated in Sections 804, 805, 830, 831 and 2933 to 2974 both inclusive of the Code of Alabama of 1923; and (c) the post-auditing of the accounts and records of the Department of Finance and the State Treasurer. The State Auditor shall continue to serve on the boards and commissions of which he is by law an ex-officio member. The State Auditor shall make a full and complete report to the Governor at the close of each fiscal year showing the audited receipts and disbursements of the Government for the last completed fiscal year as required by the Constitution, and as shown by the records and documents in the office of the Department of Finance, which records shall be audited by him. This report shall also include the results of his audit of all taxes and revenues collected and paid into the Treasury, and shall also give the results of all other audits made by him. This report shall be printed and bound with and as a part of the annual financial report of the State prepared by the Department of Finance. The State Auditor shall make reports oftener upon any matters pertaining to his office if required by the Governor or the Legislature. It is also the purpose of this Act to restrict the duties of the State Auditor to: (a) Those of stating and settling the State Treasurer's accounts as provided by sections 830, 831 and 2933 to 2974 both inclusive of the Code of Alabama of 1923; (b) those of post-auditing the accounts and records of the Department of Finance, and the State Treasurer; (c) to serve on those boards and commissions upon which he is, by law, required to serve; and (d) those prescribed by the Constitution. He shall not draw any warrants on the State Treasury.

Section 2. For the performance of the extra, new and additional duties imposed upon the State Auditor by this Act, he shall receive an additional sum of Six Hundred Dollars (\$600.00) per annum as compensation, in addition to the salary now provided by law, said additional amount to be paid out of the State Treasury as the salaries of other state officers are paid, and there is hereby appropriated out of the State Treasury for the payment of the additional compensation herein provided for the sum of Six Hundred Dollars (\$600.00) per annum.

Section 3. For the proper discharge of the powers, functions and duties hereby placed upon him and required to be performed by him, he may in addition to the employees now provided by law for the office of the State Auditor, employ, with the approval of the Governor, such additional employees as are necessary for the proper discharge of these powers functions and duties, and may, with the approval of the Governor, fix their salaries, which salaries

shall be paid as the salaries of other state employees are paid. Anything in this act to the contrary notwithstanding, all officers and employees in the office of the State Auditor who would otherwise be subject to the provisions thereof, shall be subject to the provisions of the Merit System Act approved March 2, 1939.

Section 4. There is hereby appropriated annually out of the State Treasury for the payment of the salaries of the officers and employees in the office of the State Auditor, other than the compensation of the State Auditor, the amount of \$15,600.00, which is the same amount as, and not in addition to, the amount of \$15,600.00 appropriated for said purpose in the General Appropriation Act for the Quadrennium beginning October 1, 1939.

Section 5. All laws and parts of laws in conflict with any provisions of this Act, are to the extent of such conflict hereby repealed.

Section 6. This Act shall become effective upon its passage and approval by the Governor or its otherwise becoming a law.

Approved September 15, 1939.

No. 454)

(H. 642—Brown of Covington

AN ACT

To establish a budget system and provide for the preparation of a budget for each county and city school system in the State and to regulate school financing: to provide that the budgeted expenditures shall not exceed the budgeted income available for any year; to provide penalties for the expenditure of more money than the approved estimate of receipts plus balances on hand when such excess expenditure results in a deficit: to provide for the payment of teachers' salaries when due: to authorize boards of education to borrow funds against the current year's revenues when necessary to meet current expenses as they fall due: and to provide for the payment of such loans.

Be it Enacted by the Legislature of Alabama:

Section 1. BUDGET SYSTEM ESTABLISHED FOR COUNTY AND CITY SCHOOL SYSTEMS.—There is hereby established a budget system for the public schools of each county and city in the State for the purpose of promoting economy and efficiency in the finances of said public schools.

Section 2. FORM OF ANNUAL BUDGET REQUIRED.—The annual budget which shall be prepared and adopted by each county and each city board of education on or before the first day of July of each year shall be prepared and submitted to the State Superintendent of Education according to the classifications and items specified on forms provided by him and in accordance with regulations of the State Board of Education.

Section 3. STATE COMPTROLLER AND STATE SUPERINTENDENT TO ESTIMATE FUNDS.—On or before the

1st day of June of each year, the State Comptroller or such State official as may be charged by law with the responsibility of estimating the income from the various State revenue measures shall certify to the State Superintendent of Education the income estimated to be available during the next fiscal year to meet the various appropriations for the public elementary and high schools of the State. The State Superintendent shall thereupon estimate the amount of each of these funds to be apportioned to each of the school systems of the State during the next fiscal year.

Section 4. COUNTY AND CITY TREASURER TO CERTIFY ESTIMATED FUNDS AVAILABLE.—On or before the 1st day of June, the county treasurer of each county and the city treasurer of each city, the county tax assessor, or the official or officials in each county and city who are charged by law with the responsibility of determining or estimating revenues to be available for the operation of government in that county or city shall certify in writing through the county or city superintendent of education in charge of schools in that county or city to the county or city board of education the assessed valuation of property on which taxes are to be collected during the next fiscal year and the amount of school taxes which may reasonably be expected to be derived from assessed valuations during that year. This official or these officials shall also certify in writing through the county or city superintendent of education to the county or city board of education the amount which may be expected to be available from any other fund or funds set aside by law or ordinance or in any other manner for school purposes in that county or city.

Section 5. BUDGETED EXPENDITURES MAY NOT EXCEED BUDGETED INCOME.—No county or city superintendent of education shall recommend and no county or city board of education shall approve any budget for the operation of the schools for any fiscal year which shall show expenditures which are in excess of income estimated to be available by the various state and county officials as required in Sections 3 and 4 above, plus any balances on hand, except under conditions set forth by the laws of the State governing the issuance of school warrants.

Section 6. WHEN BUDGET IS OFFICIAL.—A budget shall become official and shall be followed in the matter relating to the financial operation of the schools of any school system when it has been prepared by the superintendent of education and approved by the county or city board of education, as the case may be, in accordance with the conditions prescribed above, and when a copy has been filed with and approved by the State Superintendent of Education. The State Superintendent of Education shall not approve the expenditure of public funds for the salaries of teachers unless said teachers hold valid teaching certificates and have been nominated in writing by the county or city superintendent of edu-

cation and appointed by the county or city board of education, as the case may be. A county or city superintendent of education with the approval of his board shall have authority during the fiscal year to make such changes within the budget as are deemed desirable, provided that schools are operated for the state minimum term according to rules and regulations of the State Board of Education and provided that a deficit is not incurred by such change or changes. No school board shall be entitled to receive any school funds apportioned by the State Board of Education for any fiscal year until that school board has filed a budget for that fiscal year with the State Superintendent of Education, which budget has been approved in accordance with the provisions of this act.

Section 7. **PENALTY FOR EXCEEDING BUDGET.**—No county or city board of education shall spend or obligate itself to spend more money in any fiscal year than the estimate of income available to that board of education for that year, plus balances on hand at the beginning of said fiscal year, which estimate must be approved by the State Superintendent of Education, if such excess expenditure or excess obligation to spend results in a deficit for that fiscal year except as provided in Section 8 of this act. The estimate of income shall include estimates of income from revenue receipts from all sources and estimates of non-revenue receipts from all sources but excluding all funds derived from loans other than loans obtained by the issuance of school warrants authorized by the laws of the State. If a county or city board of education in any fiscal year violates the provisions of this section, the State Board of Education shall reduce in the succeeding fiscal year the allotment from the Minimum Program Fund to which such county or city board of education is otherwise entitled an amount equal to one-fourth of said deficit. If any county or city superintendent at any time makes a financial statement to his board of education or to the State Superintendent of Education in which said superintendent purposely misrepresents the amount of the deficit or obligations outstanding of his board of education, he shall be guilty of a misdemeanor and punishable by a fine of not less than one hundred dollars and not more than five hundred dollars.

Section 8. **FUNDS MAY BE BORROWED AGAINST REVENUES OF CURRENT YEAR.**—Any county or city board of Education shall have authority during any fiscal year upon the recommendation of the county or city superintendent of education, as the case may be, to borrow money in anticipation of the current revenues for that fiscal year and to pledge the current revenues for said fiscal year for the payment of such loan or loans if funds on hand are not sufficient to pay the salaries of teachers and to meet the current expenses when due, provided, however, that the party or parties making such loan or loans to a board of education

shall not be put upon inquiry as to the validity of such indebtedness because of this provision. The total amount of such loans a board of education may have outstanding at any time during the fiscal year shall be determined as follows: From the total estimate of current revenue of that board of education for that fiscal year, which estimate is approved by the State Superintendent of Education, deduct the sum of the current revenue already received for that fiscal year and the principal and interest due on school warrants during that fiscal year and unpaid at that time and the difference shall be the maximum amount of current loans said board of education can have outstanding in anticipation of current revenue at any given time. All such current loans shall be due and payable not later than the close of the fiscal year for which the current revenue is pledged provided that if the State of Alabama makes the final apportionment of school funds for a fiscal year after the close of that fiscal year, such loans may be extended at the close of the fiscal year until such time as the State makes its final apportionment. If for any reason at the close of a fiscal year, a board of education does not have on hand sufficient funds to retire all current loans, the party or parties making such loans to the board of education shall not be put upon inquiry as to the validity of such loan or loans due to any provision of this act and any such loans unpaid at the close of any fiscal year shall become a first lien on the current revenue of the succeeding fiscal year subject only to the prior lien of principal and interest due on school warrants if such warrants are outstanding. At no time shall loans be secured to meet the current expenses in any year which shall pledge the school revenues of any other fiscal year, provided, however, that expenditures for teachers' salaries for services rendered and for transportation for the scholastic year, July 1 to June 30, inclusive, for any year, and expenditures for fuel and school supplies to be consumed in the scholastic year, July 1 to June 30, inclusive, for any year, shall be paid from receipts for that fiscal year, October 1 to September 30, inclusive, which begins October 1 after the beginning of the scholastic year, or from cash on hand and county and city boards of education shall have authority upon the recommendation of the county or city superintendent of education, as the case may be, to borrow money to pay for such expenditures and to pledge therefor the school revenue for that fiscal year from which such expenditures are to be paid, provided that such loan must be repaid during that fiscal year for which the school revenue is pledged.

Section 9. INTEREST RATE ON CURRENT LOANS.—County and city boards of education shall have authority to pay interest at a rate not exceeding six percent (6%) per annum on current loans secured in accordance with the provisions of Section

8 of this act. County and city boards of education shall have the right to call upon the State Superintendent of Education for assistance in securing loans at as low interest rate as possible.

Section 10. PAYMENT OF TEACHERS' SALARIES WHEN DUE.—It shall be the duty of county and city boards of education to pay teachers' salaries promptly when due and, if funds on hand are insufficient, to secure such current loans as are necessary to pay teachers' salaries and other current expenses when due in accordance with the provisions of Section 8 of this act. If any board of education fails to pay the salaries of its teachers in its employ for any month within ten days after such salaries are due, the county or city superintendent of education, as the case may be, must on the eleventh day of such delinquency make a full and complete report to the State Superintendent of Education of the reasons for such delinquency. No county or city board of education shall have the authority to issue certificates of indebtedness to teachers or to other creditors of the board but if current funds on hand are insufficient to pay teachers' salaries and other current expenses when due, the board shall secure current loans and pay its teachers and other current expenses on time as authorized in Section 8 of this act.

Section 11. UNFUNDED DEBTS.—If any county or city board of education has outstanding on October 1, 1939, any unfunded or floating debts, an itemized statement of the same shall be filed by said board with the State Superintendent of Education not later than December 1, 1939. Upon the approval of the State Superintendent of Education said board shall have the authority to pay said floating debts from any balances on hand at the close of any fiscal year provided that this authority shall expire on October 1, 1945.

Section 12. CONSTITUTIONALITY.—If any part of this act shall be unconstitutional, the rest shall stand.

Section 13. REPEAL.—Act No. 300 of the Acts of 1935, approved September 2, 1935, and all laws and parts of laws, general or local, inconsistent with the provisions of this act, are hereby repealed.

Section 14. TAKING EFFECT.—This act shall take effect and become operative immediately upon its passage and approval by the Governor, provided that Section 7 of this act shall not take effect until October 1, 1939.

Approved September 21, 1939.

No. 457)

(H. 739—Welch

AN ACT

To relieve Clerks of Circuit Courts of the State from liability because of their failure to collect the three dollar trial tax levied by law in Workmen's Compensation settlements made pursuant to Section 7550 of the Code of 1923.

WHEREAS By an Act of the Legislature approved August 23, 1919 (General Acts 1919, p.206) known as the Workman's Compensation Act, the costs were fixed at \$2.00 as per Section 12 (b), General Acts 1919, p.211, and which appears as Section 7550 of the Alabama Code of 1923; and

WHEREAS The Attorney General of the State of Alabama rendered an opinion on the 13th day of December, 1920 holding that \$2.00 was all the costs that could be charged under Section 12 (b), and that the \$3.00 State trial tax should not be charged under said section (Attorney General Biennial Reports 1920 - 1922, p.73); and

WHEREAS Said opinion was followed by the Clerks of the Circuit Courts of the State and by the State Examiners of Accounts; and

WHEREAS On July 27, 1935 the Attorney General rendered an opinion holding that the \$3.00 State Trial Tax should be charged in such settlements made under Section 7550 of the Code of 1923 (Attorney General Biennial Reports 1934 - 1936, p.246); and

WHEREAS The Clerks of the Circuit Courts of the various counties of the State of Alabama were unaware of the ruling of the Attorney General in the opinion rendered July 27, 1935, by reason of not being notified by said Attorney General; and

WHEREAS No Quarterly Reports were published by the Attorney General from October 1, 1934 to October 1, 1935, and the Clerks of the Circuit Courts were not advised of said opinion of July 27, 1935 until about June or July, 1939, four years after its rendition, when copies of the Biennial Reports 1934 - 1936 of the Attorney General were mailed out; and

WHEREAS Said Clerks, relying on the opinion rendered December 13, 1920 and on Section 7550 of the Code, collected only \$2.00 costs and did not collect the \$3.00 State Trial Tax in Workman's Compensation settlements under Section 7550; Now, Therefore:

Be it Enacted by the Legislature of Alabama:

Section 1. That the Clerk of the Circuit Court in each and every county in the State of Alabama is hereby released and discharged from any and all liability to the State of Alabama, to his or her county, or to any person, firm, or corporation whomsoever on account of his or her failure to collect and disburse the \$3.00 Trial Tax levied by law in Workmen's Compensation settlements made pursuant to Section 7550 of the Code of 1923.

Section 2. This Act shall be effective immediately upon its passage.

Approved September 21, 1939.

AN ACT

To provide for the creation, operation, supervision, termination and regulation of all associations accepting monies from the public for the promotion of thrift and financing of homes, whether or not incorporated; the regulation and supervision of a like business by an individual or partnership; the operation, supervision, termination and regulation of every corporation heretofore incorporated under the laws of this State, and the consolidation of two or more of them, accepting monies from the public and having for its purpose the promotion of thrift and the financing of homes by whatever name known, except Savings Banks, trust companies and trust departments of commercial banks; and the creation of a Savings and Loan Bureau of the Department of Commerce for the State of Alabama; to repeal all laws in conflict herewith, and to repeal all laws and parts of laws pertaining to Building and Loan Associations in Alabama,

Be it Enacted by the Legislature of Alabama:

ARTICLE I—INCORPORATION

Section 1. 'TERMS DEFINED. a. This act may be cited as the "Savings and Loan Act". b. "Association" means a savings and loan association subject to the provisions of this act. c. "Board" means the Savings and Loan Board. d. "Capital" means the aggregate of payments on accounts by members, plus dividends credited to such accounts, less redemption and repurchase payments. e. "Combination home and business structure" means a building or buildings, including residences for not more than 4 families, which is used in part for business purposes. The residential use of such a building must be substantial and permanent, not merely transitory. The business use may predominate. f. "Commissioner" means the Savings and Loan Commissioner. g. "Direct reduction loan" means a loan repayable in consecutive monthly installments, equal or unequal, beginning not later than 60 days after the date of the advance of the loan, sufficient to retire the debt, interest and principal, within 20 years; provided, however, that the initial loan contract shall not provide for any subsequent monthly installment of an amount larger than any previous monthly installment; and, provided further, that in the case of construction loans the first payment shall not be later than 6 months after the date of the first advance. Any such loan is an amortized loan. h. "Gross income" means the sum for an accounting period of the following: (1) Operating income. (2) Real-estate income. (3) All profits actually received during such accounting period from the sale of securities, real estate or other property. (4) Other non-recurring income. i. "Home" means a dwelling or dwellings for not more than 4 families. A property does not cease to be a home because of the incidental use of it for minor business purposes so long as the principal use of the property is for residence purposes. A home

on a farm is a home. j. "Home loan" means a real-estate loan when the security is home property. k. "Home property" means real estate on which there is located, or will be located pursuant to a home loan, a home or a combination home and business structure. l. "Impairment of capital" means that the assets of an association do not have an aggregate value (in the judgment of the board of directors or the Commissioner) equal to the aggregate amount of liabilities of the association to its creditors and members and all other persons. m. "Improved real estate" means real estate (other than land in a state of nature or wild land) on which there is a structure or an enclosure, which is cultivated, reclaimed, used for the purpose of agriculture in any form, or otherwise occupied, made better, more useful or of greater value by care so as to produce an enjoyment thereof. n. "Insured association" means an association insured by the Federal Savings and Loan Insurance Corporation created Under Title IV of the National Housing Act. o. "Member" means a person owning an account of an association, evidenced by a membership certificate issued in the name of such person, or a person borrowing from an association and holding a membership certificate issued in the name of such borrower. p. "Net earnings" means gross income for an accounting period less the aggregate of the following: (1) Operating expenses. (2) Real-estate expenses. (3) All losses actually sustained during such accounting period from the sale of securities, real estate or other property, or such portion of such losses as shall not have been charged to reserves, pursuant to the provisions of Section 13 of this act. (4) All interest paid, or due but unpaid, on borrowed money. (5) Other non-recurring charges. q. "Net earnings available for dividends" means net earnings for an accounting period less amounts transferred to reserves as provided in Section 13 of this act. r. "Operating expenses" means all expenses actually paid, or due but unpaid, by an association during an accounting period, excluding the following: (1) Real-estate expenses. (2) Interest on borrowed money. (3) Other non-recurring charges. That portion of prepaid expenses not apportionable to the period may be excluded from operating expenses, in which event operating expenses for future periods shall include that portion of such prepaid expenses apportionable thereto. s. "Operating income" means all income actually received by an association during an accounting period, excluding the following: (1) Real-estate income. (2) Other non-recurring income. t. "Other real-estate loan" means a real-estate loan when the security is improved real estate other than home property. u. "Participating Value" means the aggregate of payments by a member on an account, plus dividends credited thereto, less redemption and repurchase payments thereon. v. "Real-estate expenses" means all expenses actually paid, or due

but unpaid, in connection with the ownership, maintenance and sale of real estate (other than office building or buildings) by an association during an accounting period, excluding capital expenditures and losses on the sale of real estate. w. "Real-estate income" means all income actually received by an association during an accounting period from real estate owned (other than from office building or buildings), excluding profit from sales of real estate. x. "Real-estate loan" means a loan on the security of real estate evidenced by any form of instrument whereby a lien is created upon such real estate for the benefit of another person or whereby title to real estate is conveyed to another person; in either case as security for the payment of an obligation to such person; or whereby title to real estate is conveyed another person as trustee for a third person, as security for the payment of an obligation to such third person. y. "The regular lending area" means the county in which the home office of an association is located and the counties of the State, or adjoining States, immediately adjoining and abutting on such county and any additional area within 50 miles from the home office.

Section 2. INCORPORATION PROCEDURE a. At any time hereafter any 5 or more individuals (hereinafter referred to as the "incorporators"), citizens of this State, may form an association to promote thrift and home-financing, subject to approval as hereinafter provided in Article V of this act, by signing and acknowledging before an officer competent to take acknowledgments of deeds, 2 copies of a petition for a certificate of incorporation in the form prescribed in Section 45 hereof, which shall be filed with the Commissioner, accompanied by the incorporation fee. The incorporators shall simultaneously file with the Commissioner 2 copies of the proposed bylaws of the association in a form consistent with law and satisfactory to the Commissioner, each of which copies shall be signed by each of the incorporators and acknowledged in the same manner as the petition for certificate of incorporation. Upon receipt of such documents, the Commissioner shall submit to the Savings and Loan Board his recommendations upon any such petition. In the event the Savings and Loan Board shall approve the incorporation of the association, the Commissioner shall issue a certificate of approval of the incorporation of such association as provided in Section 33 hereof. He shall at the same time execute in triplicate a certificate of incorporation in the form provided in Section 3 hereof. He shall file one signed copy of such certificate of approval and of the certificate of incorporation with the Secretary of State. He shall endorse upon the 2 copies of the petition for certificate of incorporation filed with him such certificate of approval and return the duplicate original and a copy of the certificate of incorporation to the association, addressed to

the chairman of the incorporators and shall retain the original petition for certificate of incorporation and a copy of the certificate of incorporation in the permanent files of his office. He shall return one copy of the approved bylaws to the association, addressed to the Chairman of the incorporators, and retain in the permanent files of his office the original signed copy of the approved bylaws. The petition for certificate of incorporation, the certificate of approval of incorporation, the certificate of incorporation and the bylaws shall not be filed or recorded in any other State or county office. The failure of the Commissioner to file, return or retain any such document as above provided shall not affect the validity of the incorporation of any association. The corporate existence of an association shall begin when the Commissioner shall issue the certificate of incorporation of the association, and such existence shall be perpetual unless terminated in accordance with the provisions of this act. b. The incorporators shall appoint one of such persons as chairman of the incorporators. The incorporators shall pay in cash, to such chairman as subscriptions to the capital of the proposed association, including that part of the original subscription paid by such chairman, an aggregate amount, fixed as follows in relation to the size of the place in which the home office of the association is to be located: (1) in incorporated or unincorporated places having not more than 10,000 inhabitants, the minimum sum of \$5,000; (2) in places having more than 10,000 but less than 100,000 inhabitants, the minimum sum of \$10,000; (3) in places having 100,000 or more inhabitants, the minimum sum of \$20,000; provided the Commissioner may, in his discretion, require a larger amount of share capital to be paid in. The size of the incorporated or unincorporated place shall be determined by the Commissioner in accordance with the latest Federal census. The chairman of the incorporators shall procure from a surety company, or other surety, acceptable to the Commissioner, a surety bond in form approved by the Commissioner in an amount at least equal to the amount subscribed by the incorporators. Such bond shall name the Commissioner as obligee and shall be delivered to him. It shall guarantee the safe-keeping of the funds subscribed and their delivery to the association after the issuance of the certificate of incorporation and after the bonding of the officers. In the event of the failure to complete organization, such bond shall guarantee the return of the amounts collected to the respective subscribers of their assigns, less the incorporation fee. c. The incorporators shall create an expense fund in an amount not less than twenty percent of the minimum capital required to be paid in under this act, from which expense fund the expense of organizing the association and its operating expenses may be paid until such time as its earnings are sufficient to pay its operating expenses in addition to such dividends

as may be declared and credited to its accountholders from its earnings. The incorporators shall deposit to the credit of the association in cash the amount of the expense fund. The amounts contributed to the expense fund by the incorporators shall not constitute a liability of the association except as hereinafter provided. d. Contributions made by the incorporators to the expense fund may be repaid pro rata to the contributors from the net earnings of the Association for any dividend period after provision for statutory reserves and declaration of dividends of not less than 1 percent on capital for such dividend period. In case of the liquidation of an association before contributions to the expense fund have been repaid, any contributions to the expense fund remaining unexpended, after the payment of expenses of liquidation, all creditors, and the participation value of the accounts of all members, shall be repaid to the contributors pro rata. The books of the association shall reflect the expense fund. Contributors to the expense fund shall be paid dividends on the amounts paid in by them and for such purpose such contributions shall in all respects be considered as accounts of the association.

Section 3. CERTIFICATE OF INCORPORATION. The Commissioner shall issue to every association hereafter incorporated pursuant to this act a certificate of incorporation as follows: "Certificate Of Incorporation Of _____ Savings And Loan Association I, _____, Savings and Loan Commissioner of the State of _____, do hereby certify that _____ Savings and Loan Association, whose home office is located in _____, County of _____, State of Alabama, is duly incorporated under the provisions of the Savings and Loan Act and is legally authorized to operate and do business as a savings and loan association under the laws of this State. In Witness Whereof, I hereunto set my hand and the seal of my office, this the _____ day of _____, 19_____. (Seal) _____ Savings and Loan Commissioner"

Section 4. BYLAWS. a. CONTENTS. (1) The bylaws of every association shall provide the dates of regular meetings of members; the notice, if any, to be given; the manner of calling special meetings, and the notice to be given. (2) The bylaws shall provide for meetings of the Board of Directors, which meetings shall be held not less frequently than once a month, and for the resignation and removal of directors. (3) The bylaws may provide for an executive committee which shall have the powers of the board of directors between meetings of the board of directors. (4) The bylaws shall provide that the board of directors at their annual meeting, which shall be held within 30 days after the annual meeting of members, shall elect a president, one or more vice presidents, a secretary, and a treasurer, and such additional officers as the

board of directors may from time to time determine, provided the offices of secretary and treasurer may be held by the same person, and a vice president may be either the secretary or the treasurer. (5) The bylaws shall prescribe the duties and powers of the officers of the association. (6) The bylaws shall prescribe the method whereby written instruments shall be executed. (7) The bylaws shall prescribe the manner in which membership certificates shall be signed and delivered; provided that the bylaws shall provide that such membership certificates shall be manually signed by an officer or employee of the association designated by the board of directors. (8) The bylaws shall set forth the corporate seal of the association, which shall be 2 concentric circles between which shall be the name of the association. The year of incorporation and the name of the State shall, and an emblem may, appear in the center. (9) The bylaws shall prescribe the fiscal year, which shall be the calendar year. b. AMENDMENT. (1) The bylaws of an association may be amended at any time by a two-thirds affirmative vote of the board of directors, or by a vote of the members of the association; provided that no such amendment to the bylaws shall be effective unless and until the Commissioner has given his written approval to such amendment, unless the Commissioner shall fail to either approve or disapprove any such amendment within a period of 60 days from the time such amendment is submitted to the Commissioner for approval, in which event the amendment shall become effective as of the expiration of such 60-day period; provided further that the bylaws may be amended changing the day or hour of the annual meeting of members without the consent of the Commissioner if at least 10 days' written notice of such change of date or time of meeting shall have been sent to each member at his last known address appearing on the books of the association; and provided further that the members may, at any regular meeting or special meeting called for that purpose, adopt or abolish any or all of the bonus plans provided in Section 23 of this act without the approval of the Commissioner. If the Commissioner shall disapprove any proposed bylaw amendment, the association may appeal from such action to the Savings and Loan Board.

Section 5. ORGANIZATION MEETING. Within 30 days after the corporate existence of an association shall begin, the directors of the association shall hold an organization meeting and shall elect officers pursuant to the provisions of this act and the bylaws. At the organization meeting the directors shall take such other action as is appropriate in connection with beginning the transaction of business by the association.

Section 6. CORPORATE NAME AND OFFICES. a. CORPORATE NAME. The name of every association shall include the words "Savings and Loan Association." These words shall be

preceded by an appropriate descriptive word or words approved by the Board. An ordinal number may not be used as a single descriptive word preceding the words "Savings and Loan Association", unless such words are followed by the words "of _____", the blank being filled by the name of the town, city or county in which the association has its home office. An ordinal number may be used, together with another descriptive word, preceding the words "Savings and Loan Association", provided the other descriptive word has not been used in the corporate name of any other association in the State, in which case the suffix mentioned above is not required to be used. An ordinal number may be used, together with another descriptive word, preceding the words "Savings and Loan Association", even when such other descriptive word has been used in the corporate name of an association in the State, provided the suffix "of _____", as provided above, is also used. The suffix provided above may be used in any corporate name. The use of the words, "National", "Federal" or "United States", separately or in any combination thereof with other words or syllables, is prohibited as part of the corporate name of an association. No certificate of incorporation of a proposed association having the same name as a corporation authorized to do business under the laws of this State or a name so nearly resembling it as to be calculated to deceive, shall be issued by the Commissioner, except an association formed by the reincorporation, reorganization or consolidation of other associations, or upon the sale of the property or franchises of an association. An association acquiring or becoming possessed of all the estate, property, rights, privileges and franchises of any other association or associations by merger may have the same name as the association or one of the associations to whose franchises it succeeded.

b. CORPORATE OFFICES. Without the prior approval of the Commissioner, as provided in Section 35 of this act, no association shall establish any office other than its home office which shall be in the city and county named in the certificate of incorporation.

c. CHANGE OF NAME OR OFFICE. The name or the location of the home office of any association fixed in the certificate of incorporation may be changed in the following manner: (1) The proposed new name or the new location of the home office of the association shall be approved by a resolution adopted by a majority of the entire board of directors. (2) Immediately preceding application to the Commissioner for approval, notice of intention to change the name or the location of the home office, signed by 2 officers, shall be published, once a week for 2 successive weeks, in a newspaper, printed in the English language, of general circulation in the county in which the home office is located; and a copy of such notice shall be displayed during such consecutive 2 weeks' period in a conspicuous

place in the home office of the association. (3) Five copies of an application to the Commissioner for approval shall be signed and acknowledged before an officer competent to take acknowledgments of deeds by 2 officers of the association, and filed with the Commissioner. Upon approval, the Commissioner shall endorse on each copy of the application therefor a certificate of approval thereof. Upon such approval, the name of such association shall be immediately changed. Upon approval of an application for change of location of the home office of an association, the Commissioner shall endorse on each copy of such application a certificate of approval, as provided in Section 34 of this act. When the Commissioner shall have endorsed such an approval upon the copies of an application for approval of change of name or change of location of home office, he shall file 1 copy thereof with the Secretary of State, 2 copies with the Federal Home Loan Bank of which the association is a member, return 1 copy to the applicant association and retain the original copy of the application in the permanent files of his office.

Section 7. **FORFEITURE FOR NON-USE.** Any association, which shall not commence business within 6 months after the date upon which its corporate existence shall have begun, shall forfeit its corporate existence, unless the Commissioner before the expiration of such 6 months' period shall have approved the extension of time within which it may commence business, upon a written application stating the reasons for such delay. No such extension shall be granted after the lapse of such 6 months' period. Upon such forfeiture the certificate of incorporation shall expire and all action taken in connection with the incorporation thereof except the payment of the incorporation fee, shall become void. Amounts paid on accounts, less expenditures authorized by law, shall be returned pro rata to the respective investors.

Section 8. **CONFORMITY TO LAW.** All Associations, individuals or partnerships accepting monies from the public for the promotion of thrift and for the purpose of financing homes, whether or not incorporated, and every corporation heretofore incorporated under statutes of this State, accepting monies from the public and having for its purpose the promotion of thrift and the financing of homes by whatever name known, except Savings Bank, Trust Companies and Trust Departments of Commercial Banks, shall hereafter be subject to the provisions of this Act, and shall be deemed to exist hereunder. The name, rights, powers, privileges and immunities of every such corporation heretofore incorporated in this State shall be governed, controlled, construed, extended, limited and determined by the provisions of this act to the same extent and effect as if such corporation had been incorporated pursuant hereto, and the articles of association, certificate of incorporation,

or charter, however entitled, bylaws and constitution, or other rules, of every such corporation heretofore made or existing, are hereby modified, altered and amended to conform to the provisions of this act and the same are declared void to the extent that the same are inconsistent with the provisions of this act; except that the obligations of any such existing corporation, or association whether between such corporation or association and its members, or any of them, or any other person or persons, or any valid contract between the members of any such corporation or association, or between such corporation or association or any other person or persons, existing at the time this act takes effect, shall not be in any wise impaired by the provisions of this act; and, with such exceptions, every such corporation or association shall possess the rights, powers, privileges and immunities and shall be subject to the duties, liabilities, disabilities and restrictions conferred and imposed by this act, notwithstanding anything to the contrary in its certificate of incorporation, bylaws, constitution or rules. All obligations to any such corporation or association heretofore contracted shall be enforceable by it and in its name and demands, claims and rights of action against any such corporation or association may be enforced against it as fully and completely as they might have been enforced heretofore.

ARTICLE II. MANAGEMENT

Section 9. RIGHTS OF MEMBERS. The rights, privileges and powers, and the duties and liabilities of members of an association are fixed by the bylaws of this act. An annual meeting of the members of each association shall be held in the month of January, as fixed in the bylaws of such association. Every association shall prepare and publish annually in the month of January in a newspaper of general circulation, published in the English language, in the county in which the home office of such association is located, and shall deliver to each member upon application therefor, a statement of its financial condition, in the form prescribed or approved by the Commissioner. All account holders of record and all borrowers from the association shall be members thereof. Any person, including an adult individual, male or female, single or married, a partnership, association, and corporation, may be a borrower from the association, provided such person has full legal power to contract for the payment of the loan under the laws of this State. In the determination of all questions requiring action by the members, each account holder shall be permitted to cast 1 vote for each \$50, or fraction thereof, of the participation value of his account. A borrowing member shall be permitted, as a borrower, to cast 1 vote, and also to cast the number of votes to which he is entitled as an accountholder. No member, however, shall cast more than 50 votes. Voting may be by proxy, provided the proxy instrument au-

thorizing the proxy to vote shall have been executed in writing by the member, and shall have been executed not more than 6 months prior to the meeting of members. Any number of members present at a regular or special meeting of members constitutes a quorum. A majority of all votes cast at any meeting of members shall determine any question. The members who shall be entitled to vote at any meeting of the members shall be those owning accounts of record and borrowing members of record at the end of the calendar month next preceding the date of the meeting of members, except those who have ceased to be members. The number of votes of each member shall be determined by the participation value of his account on such record date. The association shall not charge any member any sum of money by way of fine or penalty for any cause except that a reasonable charge may be made against borrowers for defaults or prepayments. A borrowing member obligated upon a real-estate loan shall remain a member of the association, even though he shall have transferred the real-estate security subject to the real-estate loan, so long as such borrowing member remains obligated upon the real-estate loan; provided, however, that the association may, at the request of such borrowing member and the transferee of such real-estate security, transfer such membership to any transferee of such real-estate security, who is obligated on the real estate loan.

Section 10. DIRECTORS AND OFFICERS. a. POWERS. The rights, privileges and powers, and the duties and liabilities of all directors and officers of an association are to be as fixed by the bylaws and this act. The business of the association shall be managed by a board of directors of not less than 5 nor more than 15 as determined and elected by ballot from among the members by a plurality of the votes of the members. In order to qualify as a director, a member of an association must hold an account, the participation value of which is at least \$500, provided that if the assets of the association exceed \$500,000 such member must hold an account, the participation value of which is at least \$1000.00; and, provided further, if the assets exceed \$2,500,000, the participation value of such account must be at least \$2,000. A director shall cease to be a director when he ceases to be a member, or when the net equity above loans of all accounts of the association held by him aggregate less than the minimum required to be eligible for election as a director, and his office shall automatically become vacant, provided no action of the Board of directors shall be invalidated through the participation of such director in such action. At the first annual meeting, the directors shall be divided into 3 classes of as nearly equal numbers as possible. The term of office of directors of the first class shall expire at the annual meeting next ensuing the first election; of the second class, 1 year thereafter; and of

the third class, 2 years thereafter; and at each annual election thereafter directors shall be chosen for a full term of 3 years to succeed those whose terms expire. The number of directors within the limits hereinabove specified may be subsequently increased only by vote of the members. If the members fail to elect a director to fill each vacancy created by any such increase, the directors may fill such vacancy by electing a director to serve until the next annual meeting of the members, at which time a director shall be elected to fill the vacancy for the unexpired term for the class of director in which such vacancy exists. Whenever under the provisions hereof the number of directors is changed and vacancies caused by such change are filled, the directors so elected shall be classified in accordance with the provisions hereof, so that each of the 3 classes shall always contain as nearly equal numbers as possible. If any vacancy shall occur among the directors by reason of death, resignation or removal, such vacancy, not previously filled by the board of directors, may be filled by the members at any meeting held during the existence of such vacancy and no prior notice of such election need be given. The existence of such vacancy, however, does not require the calling of a special meeting of members, unless there shall be a written request for such meeting by members holding of record at least one-tenth of the capital of the association. Any vacancy among the directors, not so filled by the members, may be filled by a majority vote of the remaining directors, though less than a quorum, by electing a director to serve until the next annual meeting of the members, at which time a director shall be elected to fill the vacancy for the unexpired term for the class of director in which such vacancy exists.

b. BONDS OF DIRECTORS, OFFICERS AND EMPLOYEES. All directors, officers and employees of an association having control of or access to moneys or securities of such association shall, before entering upon the performance of any of their duties, execute their individual bonds with adequate corporate surety payable to the association as an indemnity for any pecuniary loss the association may sustain of money or other property by or through any fraud, dishonesty, forgery or alteration, larceny, theft, embezzlement, robbery, burglary, hold-up, wrongful or unlawful abstraction, misapplication, misplacement, destruction or misappropriation, or any other dishonest or criminal act or omission, or infidelity to duty of or by any such director, officer, employee or agent. Associations which employ collection agents, who for any reason are not covered by a bond as hereinabove required, shall provide for the bonding of each such agent in an amount equal to at least twice the average monthly collections of such agent. Such agents shall be required to make settlement with the association at least monthly. No bond coverage will be required of any agent which is a bank insured by the

Federal Deposit Insurance Corporation or an institution insured by the Federal Savings and Loan Insurance Corporation. The amounts and form of such bonds and the sufficiency of the surety thereon shall be approved by the board of directors and by the Commissioner. In lieu of individual bonds, a blanket bond, protecting the association from loss through any such act or acts on the part of any such director, officer or employee, shall be obtained if required by the Commissioner. A true copy of all bonds of directors, officers, employees and agents shall be filed at all times with the Commissioner. Such bonds shall provide that a cancellation thereof either by the surety or by the insured shall not become effective unless and until 10 days' notice in writing shall have first been given to the Commissioner, unless he shall earlier approve such cancellation.

Section 11. BOOKS, RECORDS AND ACCOUNTS. Every association shall keep at the home office correct and complete books of account and minutes of the proceedings of members, directors, and the executive committee. Complete records of all business transacted shall be maintained at the office. Every association shall use such forms and observe such accounting principles and practices as are approved by the Commissioner. Every association shall close its books at the close of business on June 30 and December 31 of each year, which dates are termed in this act the "semi-annual closing dates". No association by any system of accounting or any device of bookkeeping shall, either directly or indirectly, enter any of its assets upon its books in the name of any other person, partnership, association, or corporation, or under any title or designation that is not truly descriptive of such assets. The Commissioner after a determination of value approved by the Savings and Loan Board may order that assets in the aggregate to the extent that such assets have depreciated in value, be charged off, or that a special reserve or reserves equal to such depreciation in value be set up by transfers from undivided profits. The bonds or other interest-bearing obligations purchased by an association shall not be carried on its books at more than the actual cost thereof. An association shall not carry any real estate on its books at a sum in excess of the total amount invested by such association on account of such real estate, including advances, cost and improvements but excluding accrued but uncollected interest. Every association shall appraise each parcel of real estate at the time of acquisition thereof. The Commissioner may require the appraisal of real estate securing loans which are delinquent more than six months. The report of each such appraisal shall be submitted in writing to the board of directors and shall be kept in the records of the association. Every association shall maintain membership records, which shall show the number of each membership certifi-

cate issued, the name and address of the member to whom issued, whether the member is an accountholder, or a borrower, or an accountholder and a borrower, the date of issue thereof, the name and address of each transferee of each membership certificate, and the date of transfer.

ARTICLE III. CAPITAL

Section 12. CAPITAL AND OWNERSHIP. a. CAPITAL. The capital of an association is not limited and shall consist of the aggregate of payments on accounts by its members, plus dividends credited to such accounts, less redemption and repurchase payments. It shall be accumulated only by payments by investors and earnings on accounts as provided in this act. The value of the participation in the capital of each account held by a member (hereinafter termed the "participation value") shall be the aggregate of payments upon such account, plus dividends credited thereto, less redemption and repurchase payments. Except as limited by the board of directors from time to time, a member may make payments on accounts in such amounts and at such times as he may elect. Accounts may be issued for cash, or property in which the association is authorized to invest, and, in the absence of fraud in the transaction, the value of the property taken in payment therefor, as determined by the board of directors, shall be conclusive. The members of an association shall not be responsible for any losses which its capital shall not be sufficient to satisfy, and the accounts shall not be subject to assessment, nor shall the accountholders be liable for any unpaid installments on their accounts. Dividends shall be declared in accordance with the provisions of this act. Except as to accounts of \$5 or less, no association shall prefer one of its accounts over any other account as to the right to participate in dividends as to time or amount. No preference between accountholders shall be created with respect to the distribution of assets upon voluntary or involuntary liquidation, dissolution or winding up of an association. No association shall have power to contract with respect to the capital or participations in the capital in a manner inconsistent with the provisions of this act. b. OWNERSHIP OF ACCOUNTS. Each account shall be represented by the account of each accountholder on the books of the association and each accountholder shall receive an account book containing a membership certificate in the form prescribed in this act, and evidencing the participation value of the account. A separate certificate for an account, in form prescribed in this act, may be issued in lieu of an account book entitled "Certificate of Account". Accounts may be purchased and held absolutely by, or in trust for, any person, including an adult or minor individual, male or female, single or married, a partnership, association, and corporation. Accounts shall be transferable only upon the books of the

association and upon proper application by the transferee and the acceptance of the transferee as a member upon terms approved by the board of directors. The association may treat the accountholder of record on the books of the association as the owner for all purposes without being affected by any notice to the contrary, unless the association waive in writing its statutory lien in whole or in part in favor of a pledge. c. FORMS OF MEMBERSHIP CERTIFICATE. The following form of certificate evidencing ownership of an account is hereby prescribed for use by all associations to appear in the account book issued to each such accountholder, which shall be identified by number and bear the date of issuance; "This certifies that_____ is a member of the undersigned and holds an account therein, subject to the Savings and Loan Act, the certificate of incorporation, and bylaws of the undersigned. "The following forms of certificate evidencing ownership of an account is hereby prescribed for use when desired in lieu of an account book by all associations to appear on the certificate of account issued to each such accountholder: "This certifies that_____ is a member of the undersigned and holds a _____ Dollar account therein, subject to the Savings and Loan Act, the certificate of incorporation, and bylaws of the undersigned." The following form of certificate evidencing membership of a borrower is hereby prescribed for use by all associations to appear in the borrower's membership book: "This certifies that_____ is a member of, and holds a loan from, the undersigned, subject to the Savings and Loan Act, the certificate of incorporation, and bylaws of the undersigned."

Section 13. RESERVES. Every association shall set up and maintain the reserves required by, and may set up and maintain such additional reserves as are permitted by this act. On the semi-annual closing dates, after payment of or provisions for all expenses, each association shall, before the declaration of a dividend for the semi-annual period, transfer to a separate reserve account, which shall be set up and maintained for the sole purpose of absorbing losses (termed in this act "general reserve"), an amount equal to 5 percent of its net earnings until such general reserve is equal to 10% of its capital. If and whenever the general reserve is not equal to 10 percent of its capital, semi-annual credits as above provided shall again be made to the general reserve until it shall again be equal to 10 percent of its capital. With the approval of the Commissioner, the board of directors may make additional transfers to other reserve accounts. If an association adopts a bonus plan or plans, it shall maintain the required bonus reserve. Interest receivable on all loans shall be accrued monthly and an interest due and accrued account shall be maintained equivalent to all accrued and uncollected interest. The books and records of every association shall reflect all accrued liabilities.

Section 14. **UNDIVIDED PROFITS.** On each semi-annual closing date, after payment or provision for all expenses and appropriate transfers to reserves, the remainder of net earnings for the half calendar year shall be credited to the undivided profits account.

Section 15. **DIVIDENDS.** As of June 30 and December 31 in each year, the board of directors shall declare a dividend payable on July 1 and January 1 of each year, respectively, or if either such date be a legal holiday, on the next succeeding business day. No dividends shall be declared except dividends payable on said dividend dates. Payments of net earnings to accountholders are dividends and shall not be referred to as interest. Dividends shall be credited to accounts on the books of the association on the dividend payment date unless an accountholder shall have requested and the board of directors shall have agreed to pay dividends on all or part of any account in cash. Dividends payable in cash shall be paid on the dividend payment date and may be paid by check or bank draft. All accountholders shall participate equally in dividends pro rata to the participation value of their respective accounts; provided that no association shall be required to pay or credit dividends on accounts of \$5 or less. Except as above provided, dividends shall be declared on the participation value of each account at the beginning of the dividend period, plus payments thereon made during the dividend period (less amounts repurchased and noticed for repurchase, which for dividend purposes shall be deducted from the latest previous payments thereon) computed at the dividend rate for the time invested, determined as provided below. The date of investment shall be the date of the actual receipt by the association of a payment on an account, except that the board of directors may fix a date, which shall not be later than the tenth of the month, for determining the date of investment, provided, however, that the board of directors may permit investments of \$100 or more to receive dividends calculated from the date of actual receipt by the association in any event. Payments on accounts, affected by such determination date, received by the association on or before such determination date, shall receive dividends as if invested on the first of the month during which such payment was made.

Section 16. **REPURCHASE.** Any accountholder may at any time present a written application for repurchase of all or any part of his accounts. No member shall have on file in any one association more than one repurchase application at a time. Every repurchase application shall request immediate repurchase of a stated amount in accordance with this section. Any member may cancel his repurchase application at any time in whole or in part by a writing. Every association shall pay or number, date and file

in the order of actual receipt, every repurchase application. Repurchases shall be made in the order of actual receipt of repurchase applications, except as provided in this section. Upon repurchases, an association shall pay the value of any account, but not in excess of the participation value thereof. If an association so elects, it may at any time pay in full each and every repurchase application as presented. It shall not, however, pay some in full and not pay every repurchase application on file in full, except by paying all repurchase applications on file on the rotation plan prescribed in this section. The board of directors shall, however, have an absolute right to repurchase any application not exceeding \$100 of any one accountholder in any one month in any order. No association can obligate itself to pay repurchases on any plan other than as provided in this act. Accountholders who have filed written application for repurchase shall remain accountholders so long as their application remains on file and shall not become creditors. No dividends shall be declared upon that portion of an account which has been noticed for repurchase, which for dividend purposes is required to be deducted from the latest previous payments on such account, so long as such application for repurchase is on file. The rotation plan of payment of repurchases is as follows: On the first day of each month, each repurchase application, which has been on file since the first day of the preceding month, shall be paid \$1,000 on account, or in full, if the amount noticed for repurchase, or the unpaid balance of such repurchase application, is less than \$1,000. Each such repurchase application for more than \$1,000 so paid, shall be deemed refiled as though filed on that day. Such limited payment on the first day of each month and such renumbering shall take place on the first day of each subsequent month as long as there are repurchase applications unpaid. At least one-third of the receipts of an association from its members during the preceding calendar month shall be applied on the first day of each month to the payment of repurchase applications which have been on file since the first day of the preceding month. Any association may apply to repurchases a larger amount than one-third of such receipts, but cannot obligate itself to do so. When an application to repurchase is reached for payment as above provided, a written notice shall be sent to the applicant by mail at his last address recorded on the books, and unless the applicant shall apply in person or in writing for such repurchase payment within 30 days from the date of such notice, no payment on account of such application shall be made and such application shall be cancelled.

Section 17. REDEMPTION. At any time funds are on hand for the purpose the association shall have the right to redeem by lot, or otherwise as the board of directors may determine, all or any part of any of its accounts on a dividend date, by giving 30 days'

notice by registered mail addressed to the accountholders at their last addresses recorded on the books of the association. No association shall redeem any of its accounts when there is an impairment of capital or when it has applications for repurchase which have been on file more than 30 days and not reached for payment. The redemption price of accounts redeemed shall be the full value of the account redeemed, but in no event shall the redemption price be less than the repurchase value. If the aforesaid notice of redemption shall have been duly given, and if on or before the redemption date the funds necessary for such redemption shall have been set aside so as to be and continue to be available therefor, dividends upon the accounts called for redemption shall cease to accrue from and after the dividend date specified as the redemption date, and all rights with respect to such accounts shall forthwith, after such redemption date, terminate, except only the right of the accountholder of record to receive the redemption price without interest. Unless membership certificates evidencing accounts which have been validly called for redemption shall be tendered for payment within 10 years from the date of redemption designated in the redemption notice, accounts not so tendered within such 10 year period shall be cancelled and the interest of the holder thereof shall be forfeited to the association and the participation value of such accounts transferred to the reserves of the association, provided the association shall mail to each such accountholder, within 6 months and not less than 3 months prior to the expiration of such 10 year period, a written notice, at the last address of such accountholder shown on the books of the association, advising the accountholder that his interests in the account called for redemption will be forfeited unless he presents his membership certificate on or before the date of such forfeiture, and stating the actual date such forfeiture will become effective.

Section 18. DUPLICATE MEMBERSHIP CERTIFICATES. Upon the filing with an association by a member of record, or his legal representative, of an affidavit to the effect that the membership certificate evidencing his membership in the Association has been lost, stolen or destroyed, and that such membership certificate has not been pledged or assigned, in whole or in part, such association shall issue a membership certificate, marked on the face thereof a duplicate, in the name of such holder of record, evidencing his membership in the association; provided, however, that the board of directors may in its discretion require such member or his legal representative to furnish a bond to the association in an amount sufficient to indemnify it against any loss which might result from the issuance of such duplicate membership certificate.

Section 19. DEPOSITS AND DEFINITE RATE SECURITIES FORBIDDEN. No association shall issue, sell, negotiate or advertise for sale, any certificates of indebtedness or receive de-

posits from the public. No association shall agree to pay a guaranteed rate of interest or fixed amount in dividends upon any accounts issued by it.

ARTICLE IV. POWERS

Section 20. **POWERS GENERALLY.** Every association incorporated pursuant to or operating under the provisions of this act shall have all the powers enumerated, authorized and permitted by this act and such other rights, privileges and powers as may be incidental to or necessary for the accomplishment of the objects and purposes of the association. Every Association shall have the following powers: a. To sue and be sued, complain and defend, in any court of law or equity. b. To purchase, hold and convey real and personal estate consistent with its objects and powers, and to mortgage, pledge or lease any real or personal estate; and to take property by gift, devise, or bequest. c. To have a corporate seal, which may be affixed by imprint. d. To appoint officers, and employees as its business shall require, and allow them suitable compensation. e. To adopt and amend bylaws as provided in this act. f. To insure its accounts with the Federal Savings and Loan Insurance Corporation, and qualify as a member of a Federal home loan bank. g. To accept savings and investments as payments on accounts as provided in this act. h. To make loans to members on the sole security of accounts. No such loan shall exceed 90 percent of the repurchase value of the accounts owned or otherwise pledged by the borrower. No such loan shall be made when an association has applications for repurchase which have been on file more than 60 days and not reached for payment. i. To make direct reduction home loans of any amount and secured by home property situated anywhere, subject to the following limitations: (1) No such loan shall exceed \$20,000, except when made under the 30 percent of capital lending power. (2) No home property securing such a loan shall be situated beyond the regular lending area, except when such loan is made under the 30 per cent of capital lending power. (3) No such loan shall be made to or for the benefit of a director, an officer or employee, except when secured by home property owned and occupied by such director, officer or employee. j. To use an aggregate amount not exceeding 30 percent of the capital at the time of such use, or a larger amount with the approval of the Commissioner, to make loans as follows: (1) Home loans of any amount, which are not direct reduction home loans. (2) Other real-estate loans, whether amortized or unamortized. This power is herein referred to as the "30 percent of capital lending power". A subsequent reduction of capital shall not affect in any way outstanding loans made under the 30 percent of capital lending power. k. To invest in securities as follows: (1) Without limit, in obligations of, or guaranteed as to principal and interest by the

United States. (2) Without limit, in obligations of Federal home loan banks and in obligations of the Federal Savings and Loan Insurance Corporation. (3) In stock of a Federal home loan bank of which it is eligible to be a member. 1. Without restriction upon the general powers of the association, to invest in: (1) Real estate whereon there is or may be erected a building or buildings for the transaction of the business of the association, from portions of which, not required for its own use, a revenue may be derived by rentals or otherwise. An association may invest in such real estate an amount representing the cost of land and improvements not exceeding the sum of its undivided profits and reserve accounts. It may, however, invest in such real estate a larger sum with the approval of the Commissioner. (2) Real estate purchased at Sheriff's sale or at any other sale, public or private, judicial or otherwise, upon which the association has a lien or claim, legal or equitable. (3) Real estate accepted by the association in satisfaction of any debt. (4) Real estate purchased for sale, or improvement and sale, upon contracts, at the cost of land and improvements, when such contracts are executed concurrently with or prior to such purchase. Such transactions shall be subject to all the limitations herein provided with respect to real-estate loans. (5) Real estate acquired by the association in exchange for real estate owned by the association. (6) Real estate acquired by the association in connection with salvaging the value of property owned by the association. Title to all real estate shall be taken and held in the name of the association and such title shall immediately be recorded in accordance with law. m. To secure advance of not more than an aggregate amount equal to one-half of its capital. Within such amount equal to one half of its capital, the association may borrow from sources other than the Federal home loan bank an aggregate amount not in excess of 10 percent of its capital. A subsequent reduction of capital shall not affect in any way outstanding obligations for borrowed money. All such loans and advances may be secured by property of the association. n. To repurchase and redeem accounts in accordance with the provisions of this act. o. To pay a bonus to members in accordance with the provisions of this act and no other bonus. p. If and when an association is a member of a Federal home loan bank, it shall have power to act as fiscal agent of the United States and, when designated for that purpose by the Secretary of the Treasury, it shall perform, under such regulations as he may prescribe, all such reasonable duties as fiscal agent of the United States as he may require, and shall have power to act as agent for any other instrumentality of the United States when designated for that purpose by any such instrumentality and as agent of the State in accordance with the laws of this State. q. To dissolve, merge, or reorganize in the manner provided in this

act. In furtherance and not in limitation of the powers hereinbefore conferred, the board of directors is expressly authorized: (1) By resolution approved by a majority of the entire board of directors, to appoint and remove members of an executive committee, composed of the president and 2 or more additional directors, which committee shall have and exercise the powers of the board of directors when it is not in session. (2) By resolution, to appoint such other committees as may be deemed necessary and to fix their duties. (3) To compensate directors as may be provided in the by-laws. (4) To fix the salaries or other compensation of officers and employees from time to time, and to delegate to any officers the power to fix the salaries or other compensation of employees. No officer shall be prevented from receiving a salary for his services as such officer by reason of the fact that he is also a director. (5) To extend leniency and indulgence to borrowing members who are in distress, and generally to compromise and settle any debts and claims. (6) To limit from time to time the amounts which may be accepted by the association as payments on accounts. (7) To reject any application for membership. (8) To exercise any and all of the powers of the association not expressly reserved by the certificate of incorporation to the members.

Section 21. LOAN PLAN AND EXPENSES. a. LOAN PLAN. Real-estate loans may be made as authorized by this act, upon any other loan plan approved by the Commissioner. No real-estate loan shall be made until a qualified person selected by the board of directors shall have submitted a signed appraisal of the real estate securing such loan, and until approved by the board of directors or a committee thereunto authorized by the board of directors. Payments on real-estate loans shall be applied first to the payment of interest on the unpaid balance of the loan; the remainder to the reduction of the loan; provided that if the loan is in default in any manner, payments may be applied by the mortgages in any manner approved by the Commissioner. Every loan shall be evidenced by a note or bond for the amount of the loan. The note or bond shall specify the amount, rate of interest, terms of repayment, and may contain all other terms of the loan contract. Every real-estate loan shall be secured by a mortgage or other instrument constituting a first lien, or the full equivalent thereof, upon the real estate securing the loan, according to any lawful or well recognized practice, which is best suited to the transaction. Any such instrument, constituting a first lien, is herein termed a "mortgage". Such mortgage shall provide specifically for full protection to the association with respect to usual insurance risks, taxes, assessments, other governmental levies, maintenance and repairs. It may provide for an assignment of rents, which assignment shall be valid. Every such mortgage or other instrument shall create, and preserve

to the association, a first lien, which shall equally secure the original loan and each and every subsequent advance and loan in any amount and for any purpose by the association to such borrower. No subsequent loan to such borrower by any other person shall establish an intervening lien, which shall disturb the first lien of such association as security for every advance and loan made to such borrower. All such mortgages shall be recorded in accordance with the law of this State. An association may pay taxes, assessments, insurance premiums and other similar charges for the protection of its real-estate loans. All such payments shall be added to the unpaid balance of the loan and shall be equally secured by the first lien on the property. An association may require life insurance to be assigned as additional collateral upon any real-estate loan. In such event, the association shall obtain a first lien upon such policy and may advance premiums thereon, and such premium advances shall be added to the unpaid balance of the loan and shall be equally secured by the first lien on the property. An association may require the borrower to pay monthly in advance in addition to interest or interest and principal payment, the equivalent of one-twelfth of the estimated annual taxes, assessments, insurance premiums and other charges upon the real estate securing a loan, or any of such charges, so as to enable the association to pay such charges as they become due from the funds so received. The amount of such monthly charges may be increased or decreased so as to provide reasonably for the payment of the estimated annual taxes, assessments, insurance premiums and other charges. Every association shall keep a record of the status of taxes, assessments, insurance premiums and other charges on all real estate securing its loans and on all real and other property owned by it. All real-estate loans may be prepaid, in part or in full, at any time, and the association shall not charge for such privilege of anticipatory payment an amount greater than 1 and one-half per cent of the amount of such anticipatory payment. Any association, by agreement with the debtor, may modify the terms of any real-estate loan so that such loan shall be an amortized loan, and incident thereto may credit on the debt the participation value of mortgage loan shares or accounts pledged as security for such real-estate loan. b. LOAN EXPENSES. Every association may require borrowing members to pay all reasonable expenses incurred in connection with the making, closing, disbursing, extending, readjusting, or renewing of real-estate loans. Without limiting the generality of the foregoing, such expenses may include appraisal, attorneys', abstract, recording, and registration fees, title examination, credit report, survey, drawing of papers, loan closing costs, and taxes imposed upon or in connection with the making and recording of any mortgage. Every association may also require borrowing members to pay the cost

of all other necessary and incidental services rendered by the association or by others in connection with real-estate loans in such reasonable amounts as may be fixed by the board of directors. Without limiting the generality of the foregoing, such costs may include the cost of services of inspectors, engineers, and architects. Such reasonable initial charges may be collected by the association from the borrower and paid to any persons, including any director, officer, or employee of the association, rendering such services, or paid directly by the borrower. In lieu of such initial charges to cover such expenses and costs, an association may charge a reasonable charge, part or all of which may be retained by the association which renders such service, or part or all of which may be paid to others who render such services. No director, officer, or employee of an association shall receive any fee or other compensation of any kind in connection with procuring any loan for an association, except for services actually rendered as above provided. No loan shall be made when the borrower is required to pay to the association or to another person in connection with the loan any unreasonable or unlawful charges or fees. The association shall ascertain the total amount paid by each borrower to it and to every other person for any reason in connection with the loan, and shall furnish a loan settlement statement to each borrower upon the closing of the loan, indicating in detail the charges and fees such borrower has paid or obligated himself to pay to the association or to any other person in connection with such loan. A copy of such statement shall be retained in the records of the association.

Section 22. **LIEN ON ACCOUNTS.** To secure loans to members an association shall have a lien, without further agreement or pledge, upon all accounts owned by the borrower. Upon default upon any loan, the association may, without any notice to, or consent of, the borrower, cancel on its books all or any accounts owned by the borrower, and apply the value of such accounts in payment on account of the loan. An association may waive its lien in whole or in part by a writing. Any association may take the pledge of an account or accounts of the association owned by a member other than the borrower as additional security for any loan secured by an account or by an account and real estate, or as additional security for any real-estate loan.

Section 23. **BONUS AND BONUS RESERVE.** In order to stimulate systematic thrift and to provide regular funds for the financing of homes, the members at a regular or special meeting may adopt the short-term bonus or the long-term bonus, or both the short-term and long-term bonus, prescribed below. The members may adopt the short-term bonus plan by adopting the following resolution and causing 3 copies thereof, certified by the secretary, to be filed with the Commissioner: "RESOLVED, That effective

on the next succeeding dividend date, the association shall be obligated to pay a cash bonus on the short-term bonus plan prescribed in the Savings and Loan Act." The members may adopt the long-term bonus plan by adopting the following resolution: "RESOLVED, That effective on the next succeeding dividend date, the association shall be obligated to pay a cash bonus on the long-term bonus plan prescribed in the Savings and Loan Act". The members may adopt both the short-term and long-term bonus plans by adopting the following resolution: "RESOLVED, That effective on the next succeeding dividend date, the association shall be obligated to pay a cash bonus on both the short-term bonus plan and the long-term bonus plan prescribed in the Savings and Loan Act". Upon the filing with the Commissioner of the required certified copies of any such resolution, the association is authorized to proceed to put such bonus plan into effect on the next succeeding dividend date. (a) **SHORT-TERM BONUS.** If, after the adoption of the bonus plan, a member desiring a short-term bonus shall agree to make regular monthly payments of any specified amount on an account until the participation value thereof shall equal 100 times the agreed monthly payment, and if the agreed monthly payments shall be made each and every month thereafter until the participation value thereof shall equal 100 times the agreed monthly payment, without a delay of more than 60 days in the payment of any monthly payment, without any prepayment of more than 12 months, and if during such period no application has been made for repurchase of any part of such account, the bonus shall be payable on the date on which the participation value of such account shall equal or exceed 100 times the agreed monthly payment. The bonus rate on such short-term account shall be $1/2$ of 1 percent per annum and the amount of the bonus shall be determined as follows: Divide the dollar amount of each semi-annual dividend declared on such account by a figure equal to twice the annual rate of percent of such semi-annual dividend declared. The amount of the bonus is the sum of the quotients obtained. (b) **LONG-TERM BONUS.** If, after the adoption of the bonus plan, a member desiring a long-term bonus shall agree to make regular monthly payments of any specified amount on an account until the participation value thereof shall equal 200 times the agreed monthly payment, and if the agreed monthly payments shall be made each and every month thereafter until the participation value thereof shall equal 200 times the agreed monthly payment, without a delay of more than 60 days in the payment of any monthly payment, and without any prepayment of more than 12 months, and if during such period no application has been made for the repurchase of any part of such account, the bonus shall be payable on the date on which the participation value of such account shall equal or exceed 200 times the agreed monthly

payment. The bonus rate on such long-term account shall be 1 percent per annum and the amount of the bonus shall be determined as follows: Divide the dollar amount of each semi-annual dividend declared on such account by a figure equal to the annual rate of percent of such semi-annual dividend declared. The amount of the bonus is the sum of the quotients obtained. The members at a regular or special meeting may abolish the bonus plan or plans as to accounts opened after the date of such action. Simultaneous with the declaration of each semi-annual dividend after the adoption of a bonus plan or plans, the board of directors shall transfer out of net earnings to an account designated "Bonus Reserve" an amount which, together with existing credits to the bonus reserve, is sufficient to pay the bonus on all accounts then entitled to participation in the bonus reserve in accordance with the provisions of this section. The board of directors may transfer any excess in the bonus reserve to the undivided profits account. The association which has become obligated as provided in this section to pay a cash bonus may advertise the short-term bonus plan and may refer to the bonus rate on such short-term bonus plan as being a bonus of $1/2$ of 1 percent per annum; and may advertise the long-term bonus plan and may refer to the bonus rate on such long-term plan as being a bonus of 1 percent per annum.

Section 24. TRANSFER OF ASSETS. a. In the regular and usual course of business, an association from time to time may sell any of its property in accordance with the provisions of this act. No director, officer or employee of an association shall directly or indirectly or under any circumstances buy assets from or sell assets to the association unless expressly approved by the board of directors. Each director, officer or employee of an association shall have the responsibilities with respect to the property of his association for the benefit of the members which the law imposes upon trustees with respect to the trust res. b. Any association may also, as one transaction, not in the regular and usual course of its business, transfer, sell, or exchange all or substantially all of its property, including its name and good will, to any other association or to a Federal savings and loan association, and may accept in return therefor, cash, shares, share accounts, and accounts of the purchasing association upon such terms as may be agreed upon by the affirmative vote of at least a majority of the directors of such association and by the affirmative vote of a majority of the votes cast by members present at any annual meeting, or special meeting called for such purpose; provided such majority of votes represented at such meeting constitute a majority of the votes to which all members are entitled; but no such bulk transfer, sale, or exchange of property shall be effective unless approved by the Commissioner. If the purchaser is an association subject to this act, the approval

of the Commissioner of any such acquisition shall first be obtained. The consideration received upon any such disposition of bulk property, shall be distributed to the accountholders pro rata to the participation value of their accounts, after the discharge of all liabilities. In the event of the disposition of all of the property of an association pursuant to this section, the vote of members shall be a vote for dissolution and a certificate of dissolution shall be executed and dissolution shall be effected in accordance with Section 28 of this act. Any members' vote under this section may be taken in connection with a vote on dissolution under section 28 of this act.

Section 25. **CONVERSION.** a. **INTO A FEDERAL SAVINGS AND LOAN ASSOCIATION.** Any association or corporation of this State, doing a home-financing business, may convert itself into a Federal savings and loan association in accordance with the provisions of Section 5 of the Home Owners' Loan Act of 1933, as now or hereafter amended, upon a vote of 51 percent or more of the votes of the members cast at an annual meeting, or at any special meeting called to consider such action, provided such 51% or more of the votes constitute a majority of the votes to which all the members are entitled. A copy of the minutes of the proceedings of such meeting of the members, verified by the affidavit of the secretary or an assistant secretary, shall be filed in the office of the Commissioner within 10 days after the date of such meeting. A sworn copy of the proceedings of such meeting, when so filed, shall be presumptive evidence of the holding and action of such meeting. Within 3 months after the date of such meeting, the association shall take such action in the manner prescribed and authorized by the laws of the United States as shall make it a Federal savings and loan association, and there shall be filed with the Commissioner a copy of the charter issued to such Federal savings and loan association by the Federal Home Loan Bank Board, or a certificate showing the organization of such association as a Federal savings and loan association, certified by the secretary or assistant secretary of the Federal Home Loan Bank Board. A similar copy of the charter, or of such certificate, shall be filed by the association with the Secretary of State. No failure to file any such instruments either with the Commissioner or the Secretary of State shall affect the validity of such conversion upon the grant to any association of a charter by the Federal Home Loan Bank Board, the association receiving such charter shall cease to be an association incorporated under this Act and shall not longer be subject to the supervision and control of the Commissioner. Upon the conversion of any association into a Federal savings and loan association, the corporate existence of such association shall not terminate, but such Federal association shall be deemed to be a continuation of the entity of the association so converted and all property of the

converted association, including its rights, titles and interests in and to all property of whatsoever kind, whether real, personal or mixed, and things in action and every right, privilege, interest and asset of any conceivable value, or benefit, then existing or pertaining to it, or, which would inure to it, shall immediately by act of law and without any conveyance or transfer and without any further act or deed, remain and be vested in and continue and be the property of such Federal association into which the state association has converted itself, and such Federal association shall have, hold and enjoy the same in its own right as fully and to the same extent as the same was possessed, held and enjoyed by the converting association, and such Federal association as of the time of the taking effect of such conversion shall continue to have and succeed to all of the rights, obligations, and relations of the converting association. All pending actions and other judicial proceedings to which the converting State association is a party shall not be deemed to have abated or to have discontinued by reason of such conversion, but may be prosecuted to final judgment, order or decree in the same manner as if such conversion into such Federal association had not been made and such Federal association resulting from such conversion may continue such action in its corporate name as a Federal association, and any judgment, order or decree may be rendered for or against it, which might have been rendered for or against the converting State association theretofore involved in such judicial proceedings. Any association or corporation, which has heretofore converted itself into a Federal savings and loan association under the provisions of the Home Owners' Loan Act of 1933, and has received a charter from the Federal Home Loan Bank Board, shall hereafter be recognized as a Federal savings and loan association and its Federal charter shall be given full credence by the courts of this State to the same extent as if such conversion had taken place under the provisions of this section, provided, however, that the foregoing requirements with respect to the filing with the Commissioner of a copy of the Federal charter or a certificate showing the organization of such association as a Federal savings and loan association shall be complied with. All such conversions are hereby ratified and confirmed and all of the obligations of such an association which has so converted shall continue as valid and subsisting obligations of such Federal savings and loan association and the title to all of the property of such an association shall be deemed to have continued and vested, as of the date of the issuance of such Federal charter, in such Federal savings and loan association, as fully and completely as if such conversion had taken place since the enactment of this act pursuant to this section. b. INTO A STATE-CHARTERED ASSOCIATION. Any Federal savings and loan association may convert itself into an association under

this act upon a vote of 51 percent or more of the votes of members of such Federal savings and loan association cast at an annual meeting, or at any special meeting called to consider such action; provided such majority of votes represented at such meeting constitute a majority of the votes to which all members are entitled. Copies of the minutes of the proceedings of such meeting of members, verified by the affidavit of the secretary or an assistant secretary, shall be filed in the office of the Commissioner and mailed to the Federal Home Loan Bank Board, Washington, D. C., within 10 days after such meeting. Such verified copies of the proceedings of the meeting when so filed shall be presumptive evidence of the holdings and action of such meeting. At the meeting at which conversion is voted upon, the members shall also vote upon the directors who shall be the directors of the State-chartered association after conversion takes effect. Such directors shall then execute 2 copies of the petition for certificate of incorporation provided for in section 2, and 4 copies of the bylaws, as provided in Section 2 of this act. The Commissioner may insert in the certificate of incorporation, at the end of the paragraph preceding the testimonium clause, the following: "This association is incorporated by conversion from a Federal savings and loan association." The directors chosen for the association shall all sign and acknowledge the petition for certificate of incorporation as subscribers thereto and proposed bylaws as incorporators of the association. The provisions of sections 2 and 33 of this act shall, so far as applicable, apply to such conversion under this act. The Commissioner may provide, by regulation, for the procedure to be followed by any such Federal savings and loan association converting into an association under this act. All of the provisions regarding property and other rights contained in the second paragraph of sub-section a of this section shall apply, in reverse order, to the conversion of a Federal savings and loan association into an association incorporated under this act, so that the State-chartered association shall be a continuation of the corporate entity of the converting Federal association and continue to have all of its property and rights.

Section 26. MERGER. As used in this section the word "association" shall include Federal savings and loan associations incorporated under Home Owners' Loan Act of 1933. Any 2 or more associations whose home offices are located in the same or adjoining counties are hereby authorized to merge, by complying with the following provisions: The respective boards of directors of such associations shall by a majority vote of each board prepare or authorize to be prepared between such associations a written agreement of merger. When such merger agreement has been ratified by a majority of the membership of the merging association, five copies of such merger agreement, signed and acknowledged before

an officer competent to take acknowledgments of deeds, by the president or a vice president and the secretary or an assistant secretary of each of the merging associations, party to such agreement (hereinafter termed "merging associations"), together with an equal number of certified copies of the proceedings of each of the meetings of the respective boards of directors at which such agreement was authorized, similarly signed and acknowledged, shall be submitted to the Commissioner for his approval. The Commissioner, upon receipt of the copies of the merger agreement, shall examine the same to determine whether the proposed plan of merger will work an undue hardship upon the members of any of the associations involved or impair the usefulness and success of other properly conducted associations in the same or neighboring communities, and shall either approve or disapprove such proposed merger. In the event any association involved in a proposed merger is a Federal savings and loan association, the Commissioner shall transmit to the Federal Home Loan Bank Board, Washington, D. C., a copy of the proposed merger agreement and shall not approve the merger agreement unless and until he has been advised, in writing, by the Federal Home Loan Bank Board that said Board has no objection thereto. If the Commissioner shall, within 60 days after receipt of the merger agreement, fail or refuse to approve any such proposed merger, the associations involved shall have the same right of appeal as is provided by Section 33 in the event of the failure or refusal of such Commissioner to approve a proposed certificate of incorporation and bylaws. Such right of appeal shall not lie in the event any of the merging associations is a Federal savings and loan association unless and until the Federal Home Loan Bank Board has advised the Commissioner that it has no objection to such merger. Upon approval by the Commissioner, which approval shall be endorsed upon 3 copies of the merger agreement, the merger agreement shall become binding upon the respective merging associations and the merger shall thereupon be effective. The Commissioner shall place a copy of the merger agreement so endorsed in the permanent files of his office and forward a copy of the merger agreement so endorsed to the Secretary of State for filing. The remaining copy of the merger agreement so endorsed shall be returned to the association resulting from such merger for its permanent records. The Commissioner, upon such approval, shall, if one or more of the merging associations is a Federal savings and loan association, notify the Federal Home Loan Bank Board. Upon the effective date of such merger, all of the assets and property of every kind and character, real, personal and mixed, tangible and intangible, choses in action, rights and credits then owned by the merging associations or which inure to any of them, shall immediately by operation of law and without any con-

veyance or transfer and without any further act or deed be vested in and become the property of the association into which the other associations are absorbed, which shall have, hold and enjoy the same in its own right as fully and to the same extent as the same were possessed, held and enjoyed by the merging associations prior to such merger; and such associations shall be a continuation of the entity and identity of the association into which the other associations are absorbed, and all of the rights and obligations of the merging associations shall remain unimpaired and the association, at the time of the taking effect of such merger, shall succeed to all of the rights and obligations and duties and liabilities of the merging associations. All rights and remedies of creditors and all liens upon the property of the merging associations shall be preserved and all debts, liabilities and duties of the respective merging associations shall thenceforth attach to the association and may be enforced against it to the same extent as if such debts, liabilities and duties had been incurred or contracted by it. All pending actions or other judicial proceedings to which any of the associations is a party shall not be deemed to have abated or to have discontinued by reason of such merger, but may be pressed to final judgment, order or decree in the same manner as if a merger had not been made; or the association resulting from such merger may be substituted as a party to such action or proceedings and any judgment, order or decree may be rendered for or against it which might have been rendered for or against any of the merging associations theretofore in such action or other judicial proceedings.

Section 27. REORGANIZATION. The board of directors of any association may at a meeting called for that purpose, adopt a plan of reorganization of the association. Five copies of the proposed plan of reorganization, signed and acknowledged before an officer competent to take acknowledgments of deeds, by the secretary or an assistant secretary of the association, shall be submitted to the Commissioner. If the Commissioner shall approve the proposed plan of reorganization, he shall endorse his approval upon 3 copies thereof. Upon the approval by the Commissioner of the proposed plan of reorganization, he shall file a copy thereof in the permanent files of his office, forward a copy to the Secretary of State for filing, and return a copy to the association. After such approval, such approved plan shall be presented to the members at an annual meeting, or special meeting called for the purpose of considering and voting upon such approved plan. If at such meeting the majority of the votes cast thereat are in favor of such approved plan, the association may proceed to reorganize in accordance therewith. Five copies of the resolution adopted approving such plan of reorganization, certified by the secretary or an assistant secretary, shall be filed with the Commissioner. The Commissioner shall place a copy

of such certified resolution in the permanent files of his office; and transmit a copy to the Secretary of State. Unless the plan of reorganization fixes the effective date thereof, the effective date of reorganization shall be the date upon which the Commissioner accepts for filing the certified copies of the resolution of the members adopting the approved plan of reorganization. The plan of reorganization may provide for reincorporation under the existing name of the association or under a different name. In addition to all other lawful provisions, the plan may provide for the exchange of shares or accounts in the association for accounts of the reorganized association. Without limiting the generality of the methods by which an association may reorganize, any association may: (1) Transfer title to any of its assets to a new association organized under this act solely to liquidate such assets in an orderly manner. Such liquidating association shall be in dissolution and shall dissolve in accordance with the provisions of Section 28 of this act. Unless the Commissioner shall otherwise approve, the board of directors of the reorganizing association shall be the board of directors of the liquidating association. The liquidating association shall pay the reorganizing association for the assets acquired the aggregate book value of such assets on the books of the reorganizing association by issuing pro rata and delivering to the accountholders and shareholders of the reorganizing association accounts of an aggregate participation value equal to the aggregate book value of the assets so acquired. The participation value of the accounts or shares of such accountholders or shareholders of the reorganizing association shall be written down in an amount equal to the participation value of the account of such accountholder in the liquidating association. Title to the assets transferred to the liquidating association pursuant to this section shall vest in the liquidating association by operation of law with the same legal effect as provided in section 26 of this act in the case of merger. (2) Set up a "Participating Reserve" by transferring thereto the aggregate book value of any assets of the association. The participation value of the shares and accounts of the association then outstanding shall be reduced pro rata by an aggregate amount equal to the aggregate book value of assets so transferred to the participating reserve. The association shall issue pro rata to such shareholders and accountholders nonrepurchasable "Participating Reserve Accounts" of an aggregate participation value equal to the aggregate book value of assets transferred to the participating reserve. The assets so represented by the participating reserve shall be identified on the books of the association as participating reserve assets and the aggregate book value of such assets as shown by the participating reserve shall be reported on any balance sheet of the association opposite the item "Participating Reserve Assets" and such assets shall be

and remain a separate fund from the other assets of the association for the sole use and benefit of the holders of participating reserve accounts. In such event, the directors shall have with respect to the liquidation of the participating reserve assets all of the powers set forth in section 28 of this act. As and when the participating reserve assets are liquidated, all proceeds therefrom shall be paid pro rata from time to time as the board of directors may determine to the holders of participating reserve accounts at the option of the board of directors either in cash or by credit upon an account of the association. If the proceeds of the final liquidating of participating reserve assets do not equal the participation value of participating reserve accounts, the loss shall be absorbed pro rata by the holders of participating reserve accounts and the association shall have no further liability in relation thereto or arising therefrom. (3) To reduce its liability to each of its accountholders pro rata to the amount credited to the account of each such accountholder on the books of the association in such a manner as to distribute the loss equally among such accountholders whenever the losses of an association resulting from the depreciation in value of its assets or otherwise are such as to result in an impairment of capital. All rights of, and obligations to, any reorganizing association shall inure to the benefit of the reorganized association and be enforceable by it and in its name and any demands, claims or rights of action against any reorganizing association may be enforced against the reorganized association as fully and completely as they might have been enforced theretofore and all deeds, notes, mortgages, contracts, judgments, transactions and proceedings whatsoever, theretofore made, received, entered into, carried on or done by the association before the reorganization shall be as good, valid and effectual for and against the reorganized association as though such reorganization had never taken place. Upon the vote of the members of an association in approval of a proposed plan of reorganization, all pending applications for repurchase of shares or accounts shall be cancelled.

Section 28. DISSOLUTION. Any association may, by a majority of the votes cast at any annual meeting, or any special meeting called for that purpose, vote to terminate its existence. Upon such vote, 5 copies of a certificate of dissolution, which shall state the name of such association, and the vote cast in favor of dissolution, shall be signed and acknowledged before an officer competent to take acknowledgments of deeds, by two officers. Five copies of such certificate shall be filed with the Commissioner, who shall examine such association, and, if he finds that it is in a safe and sound condition, shall so note, together with his approval of such dissolution, upon all the copies of the certificate of dissolution. The commissioner shall place a copy in the permanent files of his

office and file a copy with the Secretary of State. Upon such approval, the association shall be dissolved and shall cease to carry on business, but nevertheless shall continue as a corporate entity for the sole purpose of paying, satisfying and discharging existing liabilities and obligations, collecting and distributing assets, and doing all other acts required to adjust, wind up and dissolve its business and affairs. The board of directors shall act as trustees for liquidation. They shall proceed as speedily as may be practicable to wind up the affairs of the association, and, to the extent necessary or expedient to that end, shall exercise all the powers of such dissolved association, and, without prejudice to the generality of such authority, may fill vacancies, elect officers, carry out the contracts, make new contracts, borrow money, mortgage or pledge the property, sell its assets at public or private sale, or compromise claims in favor of or against the association, apply assets to the discharge of liabilities, distribute assets either in cash or in kind among accountholders according to their respective rights, after paying or adequately providing for, the payment of liabilities, and do and perform all acts necessary or expedient to the winding up of the association. All deeds or other instruments shall be in the name of the association and shall be executed by the president or a vice president and the secretary or an assistant secretary. The board of directors shall also have power to exchange or otherwise dispose of or to put in trust all, or substantially all, or any part of the assets, upon such terms and conditions and for such considerations, which may be money, stock, bonds, shares, or accounts of any insured association or of any Federal savings and loan association, or other instruments for the payment of money, or other property or other considerations, as the board of directors may deem reasonable or expedient, and may distribute such considerations or the proceeds thereof or trust receipts or certificates of beneficial interest among the accountholders in proportion to their interest therein. In the absence of fraud, any determination of value made by the board of directors for any such purposes shall be conclusive. The association, during the liquidation of the assets of the association by the board of directors, shall continue to be subject to the supervision of the Commissioner, and the board of directors shall report the progress of such liquidation to the Commissioner from time to time as he may require. Upon completion of liquidation, the board of directors shall file with the Commissioner a final report and accounting of such liquidation. The approval of such report by the Commissioner shall operate as a complete and final discharge of the board of directors or any member thereof in connection with the liquidation of such association. No such dissolution, nor any action of the board of directors in connection therewith, shall impair any contract right between such association and any borrower or other

person or persons, or the vested rights of any member of such association.

Section 29. UNCLAIMED FUNDS OF ASSOCIATIONS IN LIQUIDATION. Dividends and unclaimed share accounts remaining unpaid in the hands of Receivers or Liquidating Agents of Associations shall be handled in the same manner as is provided for the handling of such funds of Building & Loan Associations and as is provided in Sections 50, 51 and 52 of Article IX of this Act.

ARTICLE V. SUPERVISION

Section 30. SAVINGS & LOAN BUREAU. There is hereby created a Savings & Loan Bureau which shall be a Bureau of the Department of Commerce. The Bureau shall be set up, established and administered by the Savings & Loan Commissioner under the executive direction and control of the Governor, and the Commissioner shall be the same person as the Superintendent of Banks. His term of office shall be for four years. The Deputy Superintendent of Banks shall be the Deputy Commissioner. The salaries of the Commissioner and the Deputy Commissioner shall be payable monthly out of the State Treasury, as the salaries of other State officials are paid, and the Commissioner and his Deputy shall be allowed and paid for necessary travelling expenses while travelling upon official business. Before entering upon their duties, the Commissioner and the Deputy Commissioner, shall each give bond executed by a responsible surety company, running to the people of the State of Alabama in the penal sum of \$10,000.00, conditioned upon the faithful and impartial discharge of their respective duties and the proper accounting for all funds which may come into their hands as such officers. Said bonds shall be approved by the Governor and filed, with the approval of the Governor endorsed thereon, together with the oaths of office of such officers, with the Secretary of State. The cost of such bonds shall be paid by the State. Suits may be maintained on such bonds in the name of the people of this State for the use of the party injured by a breach of the conditions thereof. The Deputy Commissioner shall serve as Secretary at the Meetings of the Savings & Loan Board. The Director of Commerce with the approval of the Governor shall appoint one or more Savings & Loan Examiners, who shall be Bank Examiners, and the Bank Examiners so appointed shall not receive additional compensation for their services as Savings & Loan Examiners. The Deputy Commissioner and the Savings & Loan Examiners of the Savings & Loan Bureau shall be under the direct control of the Commissioner. The expenses of the Savings & Loan Bureau shall be audited and paid in the same manner as salaries and expenses of the other State Departments. The Commissioner and his deputy commissioner shall not be interested in any association, directly or indirectly, either as creditor, investor, director, officer,

employee or borrower. Neither the Commissioner nor any officer or employee of the Savings & Loan Bureau shall be personally liable for any acts done in good faith while in the performance of his duties provided by law. The Commissioner, his Deputy, and the Savings & Loan Examiners shall receive no compensation whatsoever from any Association. The Commissioner, his Deputy and Savings & Loan Examiners shall not divulge any information acquired by them in the discharge of their duties as prescribed by this act, except insofar as the same may be rendered necessary by law or under order of a court in an action involving the Savings & Loan Department or in criminal actions provided, that the Commissioner may furnish information as to the condition of any association to the Federal Home Loan Bank Board, the Federal Savings and Loan Insurance Corporation, Home Owners' Loan Corporation, any Federal Home Loan Bank, or to the Savings and Loan Department of other States. The Commissioner shall have a seal of office containing the words "Savings and Loan Commissioner of Alabama" in the form of a circle and the words "Seal" and "State of Alabama" shall be contained within the circle. Upon the taking effect of this act, all the duties, powers, and functions of every office and officer concerned with the control, regulation or administration of Building and Loan Associations and other similar corporations having for their purpose the promotion of thrift and the financing of homes, by whatever name known, shall cease and within 60 days after the effective date of this act, the books, records, documents, equipment, appropriations and supplies of every such office and officer shall be transferred, pursuant to orders of the Governor, to the office of the Commissioner. All proceedings heretofore instituted by an officer or officers charged with the supervision of such association and corporations shall be continued in the name of the Commissioner.

Section 31. SUPERVISORY POWER OF COMMISSIONER. a. The Commissioner shall have general supervision over all associations and corporations which are subject to the provisions of this act. He shall enforce the purposes of this act by use of the powers herein conferred and by reference to the courts when required. b. Every approval by the Commissioner given pursuant to the provisions of this act, and every communication having the effect of an order or instruction to any association, shall be in writing signed by the Commissioner under the seal of his office and shall be mailed by registered mail to the association affected thereby, addressed to the president thereof at the home office of the association. c. In granting any of the approvals referred to in the following sections of this act, the Commissioner shall consult with the Federal Savings and Loan Insurance Corporation, if the association affected by any such approval is an insured association: Sections

4, 11, 13, 20, 24, 26, 27, 28, 35, 36, 42 and 44. The Commissioner may, in his discretion, withhold any approval referred to in this act if said corporation withholds its approval; however, he shall first endeavor to obtain the concurrent approval, formally or informally, of said Corporation. No association hereafter incorporated shall transact any business, except incident to obtaining corporate existence, until it shall have obtained insurance of accounts by the Federal Savings and Loan Insurance Corporation, or its successor, so long as there is in existence an insuring corporation which is an agency or an instrumentality of the United States. The Commissioner shall file one copy of his certificate of approval of the incorporation of each new association and of the proposed by-laws of the association with said Insurance Corporation at Washington, D. C. In the event of a merger, if any of the merging associations is an insured association, the Commissioner shall not approve the proposed merger unless and until he has been advised by the Federal Savings and Loan Insurance Corporation, in writing, that upon the completion of the proposed merger, the corporation will insure the accounts of the resulting association in accordance with the provisions of Title IV of the National Housing Act. In the event of a reorganization under Section 27 of this act of an association which is an insured association, the Commissioner shall forward by mail, a copy of such proposed plan to the Federal Savings and Loan Insurance Corporation at Washington, D. C., and shall not approve the plan of re-organization unless and until he has been advised in writing by said Insurance Corporation that, provided such reorganization is effected, it will insure the accounts of the reorganized association. In such case, the Commissioner shall mail one certified copy of the resolution of the members of the reorganizing association approving the plan of reorganization to the Federal Savings and Loan Insurance Corporation at Washington, D. C. In the event of the dissolution of any association which is an insured institution, the Commissioner shall mail a copy of the certification of dissolution endorsed by him to the Federal Savings and Loan Insurance Corporation at Washington, D. C.".

Section 32. SAVINGS AND LOAN BOARD. There is hereby created a Savings & Loan Board consisting of the Commissioner, who shall be the Ex-officio Chairman of the Board, and four persons who shall be appointed by the Governor and who shall be persons with actual practical experience for at least 3 years in the operation and management of an institution of the savings and loan type and no two members of the Board shall be appointed from any one Congressional District. The members of the Board shall serve without compensation except that members shall be paid their actual travelling expenses in connection with the performance of their duties as members of the Board plus \$10.00 per diem while

engaged in the performance of such duties. Such travelling expenses and per diem shall be paid out of the State Treasury. The Board shall have such rights, powers and privileges and shall be subject to such duties as are provided by this act. The Board shall maintain in the office of the Commissioner permanent records of its hearings and decisions. The Commissioner shall provide adequate and sufficient quarters and personnel for use by the Board in connection with the performance of its business. The Governor shall appoint one member for the term of one year, one for a term of two years, one for a term of three years, and one for a term of four years, and, thereafter, upon the expiration of such terms, members shall be appointed for a term of four years. The Governor shall fill any vacancy by the appointment of a member for the unexpired term of such member. As provided in this Act, associations may appeal from certain actions of the Commissioner, by filing in writing, with the Secretary of the Board, within 30 days after the action of the Commissioner complained of, a statement of the objections taken to such action. A copy of such statement shall be simultaneously filed with the Commissioner. Within 10 days after the date of any such objection, the Board shall fix a date for a hearing on such objection. The objecting association and the Commissioner shall be notified in writing of the date of such hearing. The date of such hearing shall not be earlier than 15 days nor later than 30 days after the date of such notice, unless the Board deems an earlier hearing necessary or advisable. At such hearing, the association shall present by its attorney, a director or directors, officer or officers, or other employee, the reasons why it deems itself aggrieved by the action of the Commissioner. The Commissioner shall be heard in defense of his action. The Board may permit other persons who may be concerned or affected by its decision to appear before it at any such hearing. After hearing the evidence and determining the facts, the Board shall, upon the merits, either approve or disapprove the action of the Commissioner. After such action, should any association be dissatisfied with any findings, ruling, order or judgment of the Board, said association may within 30 days after the making and issuance thereof commence a suit in the Circuit Court of Montgomery County, Alabama, against the Board and Commissioner as defendants, to vacate and set aside said finding, ruling, or order on the ground that same is unjust and unreasonable. The rules of pleading and procedure in such suit shall be the same as are provided by law for the trial of suits in equity in the Circuit Courts of this State, and on hearing the Judge of said Circuit Court may set aside, modify, or confirm said finding, ruling, order or judgment as the evidence and the rules of equity may require. Appeals may be taken from the decision of the Circuit Court to the Supreme Court by either party in the same manner

as is provided by law in other civil cases in equity; but the Board and Commissioner may appeal without bond. Pending any such appeal, the said findings, rulings, orders and judgments of the Board shall be prima facie evidence that they are just and reasonable and that the facts found are true, and shall remain in full force and effect. If no suit be brought within said 30 days, said finding, ruling, order or judgment shall become final and binding.

Section 33. THE APPROVAL OF CERTIFICATE OF INCORPORATION AND BYLAWS. Upon the receipt by the Commissioner of a petition for a certificate of incorporation signed and acknowledged as provided in Section 2 of this act, accompanied by the incorporation fee, the Commissioner shall immediately inquire into the advisability of issuing a certificate of approval of the incorporation of such association and shall thereupon recommend to the Board the approval or disapproval of the incorporation. The Commissioner shall immediately forward his recommendations regarding the incorporation with his reasons therefor to the Board, and his records shall be available to the Board at all times. The Board shall promptly inquire into the advisability of the issuance of a certificate by the Commissioner of approval of the incorporation of such association and, either after hearing or without hearing, promptly shall approve or disapprove the incorporation. If the Board approves the incorporation, the Commissioner shall issue a certificate of approval in substantially the form provided in subsection d of Section 45 of this act.

Section 34. APPROVAL OF CHANGE OF LOCATION OF OFFICE. Whenever the Commissioner shall receive from any association an application for approval of change of location of its home office, he shall first determine whether the association has complied with the provisions of Section 6 of this act and, if he shall so find, he shall inquire into the advisability of approving such application, and he shall thereupon approve or disapprove such application. If he shall approve the application, his certificate of approval shall be substantially in the form provided in Section 45 of this act. If he shall not approve the application, the association may appeal to the Board. If the Board approves the application, the Commissioner shall issue his certificate of approval, provided, however, no Savings & Loan Association shall change the location of its Home Office to a location outside of the municipality in which it is located.

Section 35. BRANCH OFFICERS AND AGENCIES. No association shall establish or maintain a Branch Office either in the municipality in which it is located or at locations outside of such municipality.

Section 36. REPORTS AND EXAMINATIONS. On or before the last day of January in each year, every association shall

make an annual written report to the Commissioner, upon a form to be prescribed and furnished by the Commissioner, of its affairs and operations, which shall include a complete statement of its financial condition, including a statement of income and expense since its last previous similar report, for the 12 months ending on the 31st day of December of the previous year. Every such report shall be verified by the president and treasurer. Every association shall also make such other reports as the Commissioner may from time to time require, which shall be in such form and filed at such date as he may prescribe and shall, if required by him, be verified in the same manner as the annual report. Every insured association shall submit through the Federal home loan bank of the district to the Federal Savings and Loan Insurance Corporation, Washington, D. C., 2 copies of its annual report verified in the same manner as the annual report to the Commissioner; and shall likewise furnish to such Corporation, copies of each and every other report which the Commissioner shall at any time require any insured association to make to him. The Commissioner may by written order require the officers of all associations or of any one or more associations to make a monthly report to the association's board of directors on forms prescribed by the Commissioner, 2 copies of which shall be filed with the Commissioner. A copy of each such monthly report by an insured association shall be forwarded by the association to the Federal Savings and Loan Insurance Corporation, Washington, D. C. The Commissioner shall, at least once in each year, without previous notice, examine, or cause an examination to be made, into the affairs of every association subject to this act. If an association is not audited at least once each year in a manner satisfactory to the Commissioner, the examination of such association shall include an audit. In lieu of such examination, the Commissioner may accept any examination made by a Federal home loan bank, the Federal Home Loan Bank Board; or of an insured association, by the Federal Savings and Loan Insurance Corporation. Two copies of any audit, signed and certified by the auditor making such audit, shall promptly be filed with the Commissioner. Whenever, in the judgment of the Commissioner, the condition of any association renders it necessary or expedient to make an extra examination or to devote any extraordinary attention to its affairs, the Commissioner shall cause such work to be done. A copy of the report of each such examination shall be furnished to the association examined, exclusive of confidential comments and opinions made by the examiner or auditor in a separate report to the Commissioner. Such report of examination or audit shall be presented by the president to the board of directors at its next regular or special meeting. The Commissioner, or examiners or auditors shall have free access to all books and papers of an association which re-

late to its business and the books and papers kept by an officer, agent, or employee, relating to, or upon which any record of its business is kept, and may summon witnesses and administer oaths or affirmations, in the examination of the directors, officers, agents, or employees of any such association or any other person in relation to its affairs, transactions, and condition, and may require and compel the production of records, books, papers, contracts or other documents, by court order, if not voluntarily produced.

Section 37. CONSERVATORSHIP; RECEIVERSHIP. a. If the Commissioner, as a result of any examination or from any report made to him, shall find that any association is violating the provisions of its certificate of incorporation or bylaws or the laws of this State or of the United States, or any lawful order of the Commissioner, or is conducting its business in an unsafe manner, he may, by an order, direct discontinuance of such violation or unsafe practice, and conformance with all requirements of law. If an association shall refuse or neglect to comply with such order within the time specified therein, or if it shall appear to the Commissioner that any association is in an unsafe condition or is conducting its business in an unsafe manner, or if he shall find that an impairment of capital exists to such an extent that it threatens loss to the members, or if any association refuses to submit its books, papers and accounts to the inspection of the Commissioner or his representative, the Commissioner may appoint a conservator to take charge of the association and manage its business until the Commissioner shall permit the board of directors to resume management of the business or shall reorganize the association, or until a receiver shall be appointed by the Commissioner to liquidate its affairs. Any conservator appointed by the Commissioner shall have all the rights, powers and privileges possessed by the officers, board of directors and members of the association. The directors and officers shall remain in office and the employees shall remain in their respective positions but the conservator may remove any director, officer or employee provided the order of removal of a director or officer shall be approved in writing by the Commissioner. While the association is in charge of a conservator, members of such association shall continue to make payments to the association in accordance with the terms and conditions of their contracts, and the conservator, in his discretion, may permit accountholders to repurchase their accounts from the association pursuant to the provisions of this act, or under, and subject to, such rules and regulations as the Commissioner may prescribe, and the conservator shall have power to accept payments on accounts, but any payments upon such accounts received by the conservator may be segregated if the Commissioner shall so order in writing, and if so ordered, such payments shall not be subject to offset, and shall not be used to

liquidate any indebtedness of such association existing at the time the conservator was appointed for it, or any subsequent indebtedness incurred for the purposes of liquidating the indebtedness of any such association existing at the time such conservator was appointed. All expenses of the association during such conservatorship shall be paid by the association, including the salary of the Conservator. The appointment of a conservator shall be evidenced by the Commissioner issuing a certificate under the seal of his office delivered to the board of directors of the association, certifying that a conservator has been appointed pursuant to Section 37 of this act, and the compensation of such conservator shall be fixed by the Commissioner with the approval of the Governor and shall be stipulated in the certificate. Within 6 months from the date upon which the conservator shall take charge of an association, the Commissioner shall determine whether or not he shall restore the management of the association to the board of directors. Such determination shall be evidenced by the Commissioner's certificate under the seal of his office delivered to the board of directors of the association that the conservator forthwith is redelivering the management of the association to the board of directors of the association then in office. After the management of the association shall have been redelivered to the board of directors of an association, the association shall thenceforth be managed and operated as though no conservator had been appointed. At any time prior to the redelivery of the management to the board of directors, the Commissioner shall determine whether such association shall be required to reorganize. Such determination shall be evidenced by the Commissioner's certificate under the seal of his office delivered to the association that unless the association reorganize under the provisions of this act within a period of 90 days from the date of such certificate, or within such further time as the Commissioner shall approve, the Commissioner will proceed to liquidate the association. If the association is an insured association, a signed and sealed copy of each certificate mentioned in this section shall be promptly sent by the Commissioner by registered mail to the Federal Savings and Loan Insurance Corporation, Washington, D. C. b. If the Commissioner determines not to permit the association to resume business or to reorganize within the periods above specified, the Commissioner shall, upon the date of such determination, appoint a receiver for such association for the purpose of liquidation, and shall fix the salary or compensation to be paid to him, his employees, and counsel, when such payments have had the approval of the Governor. The taking of possession by the receiver shall be evidenced by the Commissioner issuing a certificate under the seal of his office delivered to the home office of the association, certifying that a receiver has been appointed to take pos-

session of its property, business and assets pursuant to Section 37 of this act. A signed and sealed copy of such certificate shall be posted in a prominent place in the principal business entrance to the home office of the association simultaneously with the delivery of such certificate to the association. The posting of such certificate shall be notice generally that all dealings with the association shall thereafter be had through the receiver or his duly appointed agents so long as the receiver shall remain in the possession of the assets of the association. A signed and sealed copy of the certificate of the Commissioner appointing a receiver of an association shall be recorded on the land record or register required by the laws of this State to be maintained for deeds to and liens upon real estate in each county or other political subdivision where real property in which the association has an interest is located. Upon such recordation of such order all of the property of the association, including its rights, titles and interests in and to all property of whatsoever kind, whether real, personal or mixed, and things in action and every right, privilege, interest and asset of any conceivable value, or benefit, then existing or pertaining to it, or which would inure to it, shall immediately by act of law and without any conveyance or transfer and without any further act or deed, become vested in and continue to be the property of the receiver of such association who shall have, hold and enjoy the same as receiver as fully and to the same extent as the same was possessed, held and enjoyed by the association of which he was appointed receiver. If the association is an insured association, a copy of such certificate shall be promptly forwarded by the Commissioner, by registered mail, to the Federal Savings and Loan Insurance Corporation, Washington, D. C. In the liquidation of associations, a receiver shall have, in addition to the usual powers of receivers, all the powers specified in this act which inure to the board of directors of an association in dissolution in their capacity of trustees for liquidation. At any time prior to the completion of the liquidation of an association, the Commissioner may, by written order, redeliver the property and assets of an association, or by such written order may reorganize such association and upon the completion of such reorganization redeliver its property and assets to the association. A signed and sealed copy of such order shall be recorded in the same manner and with the inverse effect as the certificate of the Commissioner appointing a receiver, whereupon all of the property of the association shall become vested in it by operation of law. c. If the association is an insured association, the Federal Savings and Loan Insurance Corporation is empowered at its option to act as receiver or co-receiver in the liquidation of the association, and the Commissioner shall appoint the Federal Savings and Loan Insurance Corporation as receiver or co-receiver in accordance with the written re-

quest of such corporation. If it shall serve as co-receiver, it shall equally possess with the receiver all powers granted to him as receiver. In either event, it shall have all the rights, privileges and powers conferred upon it by Federal statutes now or hereafter enacted, and may make loans on the security of, or may purchase at public or private sale, and bid at any receiver's sale, and liquidate or sell, any part of the assets of the association of which it is the receiver or co-receiver, and in the event of the purchase of any of such assets, it shall bid for and pay a fair and reasonable price. All expenses of liquidation including the salaries of Receivers or Liquidating Agents, shall be charged to the assets in liquidation, except the salaries of any employees of the Savings and Loan Bureau engaged in such liquidation and further except any salaries of any employees of the Federal Savings and Loan Insurance Corporation, provided, however, the expense incurred by the Savings and Loan Bureau in making the necessary audits of associations in liquidation shall be charged to the assets in liquidation, and shall be paid to the State Treasurer. During the course of the liquidation of any association by a receiver and, if an insured association, by the Federal Savings and Loan Insurance Corporation as receiver or co-receiver, the receiver and the Federal Savings and Loan Insurance Corporation, if such Corporation shall act as co-receiver, shall prepare a report of the progress of liquidation and of the financial condition of the association in liquidation which shall be mailed not later than the 31st day of January and the 31st day of July to each member and creditor of the association, the original signed and sealed copy thereof to be delivered to the Board. Upon completion of the liquidation of any association, a similar and final report so signed and sealed shall be delivered to the Board. Upon acceptance for filing of such final report by the Board, after hearing by said Board, if it so elects, the receiver, and the Federal Savings and Loan Insurance Corporation, if it shall have acted pursuant to the foregoing provisions as co-receiver, shall be discharged without further liability. Upon the acceptance for filing by the Board of such final report, the receiver shall advise the Secretary of State, in writing, that the liquidation of the association involved is completed. The determination of the Board with respect to such accounting and final report shall be final. d. If an association deems itself aggrieved by the action of the Commissioner in taking possession of its property, business and assets, for the purposes of conservatorship or receivership, it may appeal from such action in the manner as herein provided in Section 32, Article V of this act. No action taken by a conservator or a receiver while in office shall be invalidated by such appeal having been filed or by any order of the Board. The filing of such an appeal shall not remove a conservator from the management of an association or a receiver from

possession of the property and assets of an association during the pendency of such appeal. If the Board shall disapprove the action of the Commissioner in appointing a conservator or a receiver, it shall issue an order removing the conservator or receiver. Upon the delivery of such order of the Board to the Commissioner, the Commissioner shall issue an order redelivering the association to the Board of Directors of the association then in office. A signed and sealed copy of such order of the Commissioner redelivering the association to the Board of Directors shall be recorded on the land record or register in the manner and with the inverse effect provided in this section for the recordation of a certificate of the Commissioner appointing a receiver, and upon such recordation all of the property of the association shall become vested in the association by operation of law.

ARTICLE VI—FOREIGN ASSOCIATIONS

Section 38. **FOREIGN ASSOCIATIONS MAY NOT OPERATE.** No foreign corporation shall transact any business of a savings and loan association within this State or maintain an office in this State for the purpose of transacting such business. Federal savings and loan associations, incorporated pursuant to Home Owners' Loan Act of 1933, are not foreign corporations, and any such Federal association shall be subject to the same taxation and entitled to the same privileges as associations subject to this act.

ARTICLE VII—FEES AND TAXATION

Section 39. **FEES AND TAXES.** There is hereby expressly reenacted all laws and parts of laws pertaining to taxes, fees, assessments and licenses paid by Building & Loan Associations, and these laws and parts of laws are hereby made to apply to Savings & Loan Associations under the meaning of this Act.

ARTICLE VIII—GENERAL

Section 40. **EXEMPTION FROM "BLUE SKY" LAWS.** The sale of accounts of any association subject to the provisions of this act is hereby exempted from all provisions of law of this State which provide for the supervision and regulation of the sale of securities, and the sale of any such accounts shall be legal without any action or approval whatsoever on the part of any official authorized to license, regulate, and supervise the sale of securities.

Section 41. **PUBLIC OFFICERS AS MEMBERS.** No public officer qualified to take acknowledgments or proofs of written instruments shall be disqualified from taking the acknowledgment or proof of any instrument, in writing, in which an association is interested by reason of his membership in or employment by an association so interested, and such acknowledgments or proofs heretofore taken are hereby validated.

Section 42. **OPERATING CONTRACTS.** No association may hereafter make any operating or management contract with any

person or persons, except with the approval of the Commissioner; nor shall existing contracts be extended, renewed or transferred, without such approval.

Section 43. MINORS, MARRIED WOMEN, JOINT OWNERS AND FIDUCIARIES. a. An association may issue membership certificates to minors and to married women, each in their own right. Any payment or delivery of rights, to any minor or to a married woman, or a receipt or acquittance signed by a minor or a married woman, who holds an account, shall be a valid and sufficient release and discharge of an association for any payment on an account, or delivery of rights, to such minor or married woman. b. An association may issue membership certificates in the joint names of two or more persons or their survivor, in which event any of such persons, who shall first act shall have power to act in all matters related to the membership, whether the other person or persons named in such membership certificate be living or not. Such a joint account shall create a single membership in an association. No account shall be issued to tenants in common. The repurchase or redemption value of an account issued in joint names and dividends thereon, or other rights relating thereto, may be paid or delivered, in whole or in part, to any of such persons, who shall first act, whether the other person or persons be living or not. The payment or delivery to any person or a receipt or acquittance signed by any such person, to whom any such payment, or any such delivery of rights is made, shall be a valid and sufficient release and discharge of an association for the payment or delivery so made. c. An association may issue membership certificates in the name of any administrator, executor, guardian, trustee or other fiduciary, in trust for a named beneficiary or beneficiaries. Any such fiduciary shall have power to vote as a member as though the membership certificate were held absolutely, to make payments upon and to repurchase any such account, in whole or in part. The repurchase value of any such account, and dividends thereon, or other rights relating thereto, may be paid or delivered, in whole or in part, to such fiduciary, without regard to any notice to the contrary so long as such fiduciary is living. The payment or delivery to any such fiduciary or a receipt or acquittance signed by any such fiduciary, to whom any such payment, or any such delivery of rights, is made, shall be a valid and sufficient release and discharge of an association for the payment or delivery so made. Whenever a person holding an account in a fiduciary capacity dies and no written notice of the revocation or termination of the trust relationship shall have been given to an association, the repurchase value of such account, and dividends thereon, or other rights relating thereto, may, at the option of an association, be paid or delivered, in whole or in part, to the beneficiary or beneficiaries of such trust.

The payment or delivery to any such beneficiary or beneficiaries for any such payment or delivery, shall be a valid and sufficient release and discharge of an association for the payment or delivery so made. d. Accounts of an association and of Federal savings and loan associations organized pursuant to Home Owners' Loan Act of 1933 shall be legal investments for the funds of administrators, executors, guardians, trustees, and other fiduciaries of every kind and nature, and for the funds of all insurance companies. This provision is supplemental to, and amendatory of, any and all other acts regulating, relating to, and declaring what shall be, legal investments for administrators, executors, guardians, trustees, or other fiduciaries of every kind and nature or for the funds of insurance companies.

Section 44. **BROKERAGE BUSINESS AND PURCHASE AND SALE OF LOANS.** a. No association shall engage in the mortgage brokerage business. b. Every association shall primarily use its funds in making home loans originated by it rather than in purchasing loans; but may incidentally purchase loans of any type which it is permitted to make; provided, that no association may purchase bulk property in excess of 10 per cent of its assets or \$50,000, whichever is greater, without the approval of the Commissioner; and provided, further, that no association may purchase any real-estate loan or other property from an affiliated institution, or from an institution in liquidation, without the approval of the Commissioner. An "affiliated institution" means: (1) An institution in which the purchasing association has a substantial investment, or (2) An institution which has a substantial investment in the purchasing association, or (3) An institution of which the majority of the board of directors are the same persons who constitute a majority of the board of directors of the purchasing association. An "institution in liquidation" means: (1) An institution which has been taken over for liquidation pursuant to law, or (2) An institution which, in conformity with law, has determined to dissolve. c. Associations may originate and sell mortgages insured under Title II of the National Housing Act; provided that a charge is made and collected by the association sufficient to reimburse it for the expense incurred in originating such business. Each mortgage sold by an association, whether so insured or not, shall be sold without recourse, and, if under a contract to service the same, on a basis which will reimburse the association adequately for the cost of such servicing. d. Except as provided in subsection c of this section, no association shall make the purchase and sale of mortgages a substantial or routine part of its business. No association which holds a mortgage or other instrument securing a debt which is a first lien upon real estate and which simultaneously holds one or more additional mortgages or other instruments securing a debt

and constituting liens inferior to the first lien upon the same real estate, shall sell or otherwise dispose of any such mortgage or other instrument, unless it shall simultaneously sell or otherwise dispose of all mortgages or other instruments constituting inferior liens upon the same real estate.

Section 45. FORMS. a. Petition for certificate of incorporation. The following form of petition for certificate of incorporation shall be used by all applicants for permission to organize a savings and loan association under the provisions of this act:

Alabama

_____,
(City)

_____,
State

Savings and Loan Commissioner

Date

Address_____

The undersigned respectfully apply for permission to organize a savings and loan association under the name and style of _____ Savings and Loan Association _____, with home office to be located at _____, in the county of _____. In support of our petition, we submit the following: (1) All petitioners are citizens of the State of Alabama, and are desirous of forming a local mutual thrift and home-financing association in which people may invest their funds and which will provide primarily for the financing of homes. (2) All petitioners are responsible persons of good character. There is a need for such an institution in the community in which the home office of the association is to be located; there is a reasonable probability for its success and usefulness; and it can be established without undue injury to existing properly conducted local thrift and home-financing institutions. (3) Applicants are ready to submit to the Savings and Loan Commissioner and to the Savings and Loan Board such evidence of the facts herein stated as required by said Commissioner or said Board. (4) Petitioners agree not to represent themselves as authorized to do business until this application is approved, and further agree that upon issuance of certificate of incorporation to said petitioners, they will proceed only in accordance with provisions of the "Savings and Loan Act and rules and regulations made thereunder. (5) Names and post office addresses of the incorporators, all of whom are citizens of the State of Alabama, and the required amounts paid in by each of the incorporators to the Chair-

man of the incorporators, as noted below, upon subscriptions to capital in the aggregate sum of \$_____ are as follows:

NAMES	POST OFFICE ADDRESSES	CAPITAL PAID IN FULL
_____	_____	\$ _____
Chairman		
_____	_____	\$ _____
_____	_____	\$ _____
_____	_____	\$ _____
_____	_____	\$ _____
_____	_____	\$ _____
Total paid-in capital		\$ _____

(6) DIRECTORS. The names and post office addresses of the members who shall serve as directors until the first annual meeting of the members, are as follows:

NAMES	POST OFFICE ADDRESSES

IN WITNESS WHEREOF, we have signed and acknowledged
this certificate of incorporation in duplicate. Dated this _____
day of _____, 19____.

STATE OF _____)
COUNTY OF _____) SS:

On this_____ day of _____, 19____, before me_____
_____, a Notary Public for the State of Alabama to me known
and known to me to be the persons described as the incorporators
in and who executed the foregoing certificate of incorporation and
severally acknowledge the said certificate of incorporation to be
the act and deed of the signers respectively and that the facts there-
in stated are truly set forth.

Notary Public.

b. **BYLAWS.** The following form of bylaws may be adopted and used by any association without specific approval of the Commissioner. Section 1. Annual meetings of members. 2. Special meetings of members. 3. Notice of meetings of members. 4. Election of directors. 5. Meetings of the board of directors. 6. Resignation and removal of directors. 7. Compensation of directors. 8. Executive and other committees. 9. Officers. 10. Execution of instruments. 11. Membership. 12. Corporate seal. 13. Fiscal year. 14. Amendments **BYLAWS**_____ **SAVINGS**

AND LOAN ASSOCIATION_____.

1. **ANNUAL MEETINGS OF MEMBERS.** The annual meeting of the members of the association for the election of directors and for the transaction of any other business of the association shall be held at its office at 2 o'clock in the afternoon on the last Monday in January in each year, if not a legal holiday or, if a legal holiday, then on the next succeeding day not a legal holiday. The annual meeting may be held at such other time on such day or at such other place in the same community as the board of directors may determine, but, in such event, at least 10 days' written notice thereof shall be sent to each member at his last known address appearing upon the membership book of the association. At each annual meeting, the officers shall make a full report of the financial condition of the association and of its progress for the preceding year, and shall outline a program for the succeeding year. 2. **SPECIAL MEETINGS OF MEMBERS.** A special meeting of the members of the association may be called at any time by the chairman of the board of directors, the president, or secretary, or the board of directors, and shall be called by the president, a vice president or the secretary upon the written request of members of record holding, in the aggregate, at least one-tenth of the capital of the association. Such written requests shall state the purposes of the meeting and shall be delivered at the home office of the association addressed to the president. 3. **NOTICE OF MEETINGS OF MEMBERS.** Except as hereinabove provided, no notice of annual meetings of members need be given to members. Notice of each special meeting of members shall state the purpose for which the meeting is called, the place of meeting, and the time when it shall convene and shall be published once a week for 2 successive calendar weeks (in which instance on any day of the week), prior to the date on which such special meeting shall convene, in a newspaper printed in the English language and of general circulation in the county in which the home office of the association is located. In addition to such publication of such notice, a copy thereof shall be posted in a conspicuous place in the home office of the association during the 14 days immediately preceding the date on which such special meeting shall convene. A copy of such notice may be mailed by the Asso-

ciation, postage prepaid, at least 15 days and not more than 30 days prior to the date on which such special meeting shall convene to all members of record of the association at their last address appearing upon the membership book of the association, but such mailing shall not be a condition precedent to, nor shall any defect therein affect the validity of any such special meeting. If any member, in person or by attorney thereunto authorized, shall waive, in writing, notice of any special meeting of members, notice thereof need not be given to such member. 4. ELECTION OF DIRECTORS. If the members at any annual meeting so determine and until rescinded by members at any annual meeting, directors of such association shall be nominated in accordance with the following provisions: "The president, at least 30 days prior to the date of each annual meeting shall appoint a nominating committee of three persons who are members of the association. Such committee shall make nominations for directors in writing, and deliver to the secretary such written nominations at least 15 days prior to the date of the annual meeting, which nominations shall forthwith be posted in a prominent place in the home office for the 15 days' period prior to the date of the annual meeting. Provided such committee is appointed and makes such nominations, no nominations for directors except those made by the nominating committee shall be voted upon at the annual meeting unless other nominations by members are made in writing and delivered to the secretary of the association at least 10 days prior to the date of the annual meeting, which nominations shall forthwith be posted in a prominent place in the home office for the 10 days' period prior to the date of the annual meeting. Ballots bearing the names of all persons nominated by the nominating committee and/or by other members prior to the annual meeting shall be provided for use by the members at the annual meeting. If at any time the president shall fail to appoint such nominating committee, or the nominating committee shall fail or refuse to act at least 15 days prior to the annual meeting, nominations for directors may be made at the annual meeting by any member and shall be voted upon". 5. MEETINGS OF THE BOARD OF DIRECTORS. The board of directors shall meet regularly without notice at the home office of the association at least once each month at the hour and date fixed by resolution of the board of directors, provided that the place of meeting may be changed by resolution of the board of directors. Special meetings of the board of directors may be held at any place in the territory in which the association may make loans specified in a notice of such meeting and shall be called by the secretary upon the written request of the president, or of 3 directors. All special meetings shall be held upon at least 3 days' written notice to each director unless notice be waived in writing before or after such meeting. Such

notice shall state the place, time and purposes of such meeting. No notice need be given of any meeting at which every director shall be present. A majority of the directors shall constitute a quorum for the transaction of business. The act of a majority of the directors present at any meeting at which there is a quorum shall be the act of the board of directors. In the absence of a quorum, the directors present at the time and place of any meeting may adjourn such meeting from time to time until a quorum is present. No notice of any such adjourned meeting need be given. All meetings of the members and of the board of directors shall be conducted in accordance with Roberts' Rules of Order.

6. RESIGNATION AND REMOVAL OF DIRECTORS. Any director may resign at any time by sending a written notice of such resignation to the office of the association addressed to the secretary. Unless otherwise specified therein, such resignation shall take effect upon receipt thereof by the secretary. Any director may be removed either with or without cause at any time by the majority of all votes cast at any annual meeting of members, or at any special meeting of members called for such purpose. Any director may be removed by a two-thirds vote of the entire board of directors at any regular meeting or at any special meeting called for such purpose. Any director may be removed for cause by a two-thirds vote of the entire board of directors at any regular meeting or at any special meeting called for such purpose. Resignation of a director may be required by an affirmative vote of the Board of Directors upon three consecutive absences from regular meetings of the Board of Directors.

7. COMPENSATION OF DIRECTORS. The board of directors, by resolution, may provide a fixed sum to be paid to directors for attendance and may authorize the payment of the expenses of attendance at regular and special meetings of the board of directors, which compensation shall not preclude any director from serving the association in any other capacity and receiving compensation therefor. Directors, as such, shall not receive any stated salary for their services.

8. EXECUTIVE AND OTHER COMMITTEES. Each member of the executive committee, if appointed in accordance with the certificate of incorporation, shall continue in office until the first meeting of the board of directors held after the annual meeting of members next following his election and until his successor is appointed and qualified, or until death, resignation or removal, either for or without cause, at any time by the affirmative vote of a majority of the directors then in office at a regular meeting of the board of directors or at a special meeting thereof called for that purpose, or until he shall cease to be a director. The president shall preside at all meetings of the executive committee at which he shall be present. The executive committee, by resolution, may fix the time and date for the holding at the home office of the association

of regular meetings without notice. Special meetings of the executive committee may be called from time to time by the president or by any 2 members of the executive committee. A written notice of at least 3 days, stating the place, time and purposes, shall be given to each member of the executive committee of each special meeting, unless notice be waived in writing before or after such meeting. If every member is present no notice need be given of any meeting. Any member of the executive committee may resign in the same manner and with the same effect as may a member of the board of directors. The board of directors may appoint another director to fill any vacancy occurring in the executive committee. The presence at any meeting of the executive committee of a majority of the members thereof then in office shall be necessary and sufficient to constitute a quorum for the transaction of business. A majority of such quorum may decide any questions that may come before any such meeting. The secretary of the association shall be ex officio secretary of the executive committee and shall maintain accurate minutes of all resolutions adopted by the executive committee. The secretary shall read the minutes of all meetings of the executive committee at, and report to, each regular meeting of the board of directors all action taken by the executive committee since the last preceding regular meeting of the board of directors. All action by the executive committee and by other committees of the association shall be governed by Roberts' Rules of Order.

9. OFFICERS. a. **OFFICERS AND EMPLOYEES.** At the annual meeting of the board of directors, which may be held without notice at the home office of the association immediately following the annual meeting of members, and which shall be held within 30 days after the annual meeting of members, a president, one or more vice presidents, a secretary and a treasurer shall be elected. The board of directors may appoint such additional officers and employees as it may from time to time determine. It may elect a chairman of the board of directors from among the directors. The president shall be chosen from among the directors. The offices of secretary and treasurer may be held by the same person, and a vice president may also be either the Secretary or the treasurer. The term of office and all officers shall be 1 year or until their respective successors are elected and qualified; but any officer may be removed at any time by the board of directors for or without cause. The officers shall have such powers and duties as are specified in the bylaws and as generally pertain to their respective offices, as well as such powers and duties as from time to time may be conferred by the board of directors.

b. **CHAIRMAN OF THE BOARD OF DIRECTORS AND PRESIDENT.** (1) **CHAIRMAN OF THE BOARD OF DIRECTORS.** If the members of the association elect a chairman of the board of directors, he shall pre-

side at all meetings of the board of directors, if present, and may exercise any and all powers and perform any and all duties pertaining to the office of president, which the board of directors by resolution confer upon him. He shall have such other powers and duties as may from time to time be assigned to him by the board of directors. (2) **PRESIDENT.** The president shall be the chief executive officer of the association and, subject to the control of the board of directors, shall have general charge of the business affairs and property of the association and control over its several officers. The president shall preside at all meetings of members and, in the absence of the chairman of the board of directors, at all meetings of the board of directors. The president shall do and perform such other duties and may exercise such other powers as from time to time may be assigned to him by the board of directors. c. **VICE PRESIDENTS.** At the request of the president or in his absence or disability the vice president or, in case there shall be more than one vice president, the vice president designated by the president (or in the absence of such designation, the vice president designated by the board of directors, or the executive committee) shall perform all the duties of the president and when so acting shall have all the powers and shall be subject to all the restrictions upon the president. Any vice president shall perform such other duties and may exercise such other powers as from time to time may be assigned to him by the president or the board of directors. d. **THE SECRETARY.** The secretary shall: (1) Keep the minutes of the meetings of the members, the board of directors, and the executive committee and cause the same to be recorded in books provided for that purpose. (2) Prepare or cause to be prepared and submit to the chairman of each meeting of the members, a certified list, in alphabetical order, of the names of the members entitled to vote at such meeting, together with the number of votes which each member is entitled to cast. (3) See that all notices are duly given in accordance with the provisions of these bylaws and the Savings and Loan Act. (4) Be custodian of the records of the association and of the seal of the association and see that the seal is affixed to all documents the execution of which on behalf of the association under its seal shall have been duly authorized. (5) See that all books, reports, statements, certificates and all other documents and records required by law to be kept or filed are properly kept or filed; and (6) In general, perform all duties and have all powers incident to the office of secretary and perform such other duties and have such other powers as from time to time may be assigned to him by the president or the board of directors. e. **ASSISTANT SECRETARIES.** The assistant secretaries shall have such duties as from time to time may be assigned to them by the secretary or the board of directors. f. **THE TREASURER.** The treasurer shall: (1) Have supervision over the funds, securities, receipts and

disbursements of the association. (2) Cause all monies and other valuable effects to be deposited in the name and to the credit of the association in such banks or trust companies or with such bankers or other depositaries as shall be selected by the board of directors or pursuant to authority conferred by the board of directors. (3) Cause the funds of the association to be disbursed by check or drafts upon the authorized depositaries of the association when such disbursements shall have been duly authorized. (4) Cause to be taken and preserved proper vouchers for all monies disbursed. (5) Cause to be kept at the office of the association correct books of account of all its business and transactions. (6) Render to the president, the board of directors or the executive committee, whenever requested, an account of the financial condition of the association and of his transactions as treasurer. (7) Be empowered from time to time to require from the officers and agents of the association reports or statements giving such information as he may desire with respect to any and all financial transactions of the association; and (8) In general, perform all duties and have all powers incident to the office of the treasurer and perform such other duties and have such other powers as from time to time may be assigned to him by the president or the board of directors. g. ASSISTANT TREASURERS. The assistant treasurers shall have such duties as from time to time may be assigned to them by the treasurer or the board of directors. 10. EXECUTION OF INSTRUMENTS. All contracts, notes, drafts, acceptances, checks, endorsements, assignments, releases, deeds, all evidences of indebtedness of the association, and all documents, instruments or writings of any nature, shall be signed, executed, verified, acknowledged and delivered by such officers, agents or employees of the association, or any one of them, in such manner as from time to time may be determined by resolution of the board of directors. Proxies to vote with respect to securities owned by the association may be executed and delivered from time to time by the president, a vice president, the secretary or treasurer of the association, or by any other person thereunto authorized by resolution of the board of directors. 11. MEMBERSHIP CERTIFICATES. Any officer or employee designated by the board of directors shall manually sign and deliver to each investor in and borrower from the association at the time such investor makes initial payment on an account, or a loan to any such borrower is made, respectively, membership certificates in the proper form as prescribed in the Savings and Loan Act. Membership certificates shall be numbered consecutively by type or otherwise. The officer or employee signing a membership certificate shall enter the name of the member thereon. Joint investors and joint borrowers constitute a single membership. 12. CORPORATE SEAL. The seal shall be two concentric circles between

which shall be the name of the association. The year of incorporation, and the name of this State, shall, and an emblem may, appear in the center. 13. FISCAL YEAR. The fiscal year shall be the calendar year. 14. AMENDMENTS. Amendments of these by-laws may be made, from time to time, as provided in the Savings and Loan Act. We, the undersigned, being the incorporators of the _____ Savings and Loan Association, do hereby adopt and for that purpose do sign and acknowledge the foregoing by-laws as and for the bylaws of the _____ Savings and Loan Association, this _____ day of _____, 19____.

STATE OF ALABAMA)
 COUNTY OF _____) SS

On this _____ day of _____, 19____, before me, _____, a Notary Public, in and for the State of Alabama, personally appeared to me known and known to me to be the persons described as the incorporators in the certificate of incorporation of the _____ Savings and Loan Association and who severally acknowledged the foregoing bylaws to be the act and deed of the signers thereof respectively.

 Notary Public.

c. MERGER AGREEMENT. The following form of merger agreement may be used by any associations proposing to merge, and when so used shall be a lawful form of merger agreement and shall be given legal effect in accordance with its terms and provisions, but shall not preclude the use of any other form approved by the Commissioner: AGREEMENT made this _____ day of _____, 19____, by and between _____ Savings and Loan Association _____, (_____ Savings and Loan Association _____) and _____ Savings and Loan Association _____, which contracting parties are hereafter termed "merging associations"; WHEREAS, the board of directors of the merging associations has approved a plan of merger by a majority vote of each of the separate boards to be evidenced by this agreement and have authorized the undersigned officers to execute this agreement in the name and on behalf of the merging associations and to obtain the approval of the Commissioner to the plan of merger; NOW, THEREFORE, in consideration of the mutual advantages which will inure to all parties interested and the terms and conditions hereinafter set forth, the parties hereto agree as follows: 1. The name, style, and title of the association into

which the associations are merged shall be the _____ Savings and Loan Association _____ (hereinafter termed the "association"). 2. The association shall operate under a certificate of incorporation in the form prescribed in section 3 of the Savings and Loan Act, which shall be deemed to be a continuation of the charter of that association into which the other merging associations are absorbed. 3. The number of directors of the association shall be _____, and the names and residences of those who are chosen to serve until the first annual meeting of the members are: NAME RESIDENCE. 4. The bylaws of the association shall be in the form hereto annexed. 5. The board of directors of the association is authorized and directed to cause to be issued membership certificates to the members of the merging associations in accordance with the terms of this agreement. 6. The manner of converting capital of the merging associations into that of the association shall be as follows: (a) The association shall issue to the accountholders of the merging associations, the corporate existence of which are terminated by the merger, membership certificates evidencing accounts pro rata to the participation value of the accounts of each of such accountholders as of the date of the current balance sheets of each of the merging associations, plus payments thereon and dividends credited thereto after such date, minus any sums repurchased or redeemed on such accounts after such date, as shown on the attached pro forma balance sheet and schedules, giving effect to the merger. (b) The association shall issue to each borrowing member of the merging associations, the corporate existence of which are terminated by the merger, membership certificates in the merged association evidencing their membership therein as borrowers therefrom. 7. The home office of the association shall be in the City of _____, County of _____, State of Alabama. 8. Annexed hereto and made a part hereof as exhibits are balance sheets of the merging associations dated _____, 19_____, certified by the treasurers of the several associations and pro forma balance sheet of the association dated _____, 19_____, giving effect to the proposed plan of merger. 9. This agreement shall not be effective unless approved by the Commissioner. The effective date of the merger shall be the date upon which this proposed plan of merger shall be approved by the Commissioner. IN WITNESS WHEREOF the contracting parties to this agreement have in pursuance of a resolution duly adopted at a legal meeting of the board of directors of each of the merging associations, caused these presents to be signed in the names of the respective merging associations by their respective presidents or vice presidents and their respective secretaries or assistant secretaries, all duly authorized thereunto, the day and year first above mentioned. The above form is to be signed by

the president or vice president and secretary or assistant secretary of each association, party to the merger, under the proper name of their respective associations, and acknowledged as required in Section 26 of this act. (d) A form substantially as follows is prescribed for use by the Commissioner pursuant to Section 33 of this act: APPROVAL OF CERTIFICATE OF INCORPORATION AND BYLAWS I, _____ Savings and Loan Commissioner of the State of Alabama, do hereby certify that, by resolution dated _____, the Savings and Loan Board approved the incorporation of _____ Savings and Loan Association _____, and determined that; (1) The provisions of the Savings and Loan Act have been complied with. (2) The certificate of incorporation and bylaws conform to the provisions of the Savings and Loan Act. (3) The directors named in the certificate of incorporation are persons of good character and responsibility, and have the experience and general fitness to engage in the savings and loan business. (4) A necessity exists for such an association in the community to be served. (5) There is a reasonably probability of the usefulness and success of the association. (6) The incorporation of such association will not unduly injure any properly conducted existing association, in the same or neighboring communities. The incorporation of _____ Savings and Loan Association _____ is hereby approved. IN WITNESS WHEREOF I have hereunto set my hand and the seal of my office, this _____ day of _____, 19____.

(SEAL)

Savings and Loan Commissioner.

(e) A form substantially as follows is prescribed for use by the Commissioner pursuant to section 34 of this act:

APPROVAL OF CHANGE OF LOCATION OF OFFICE

I, _____, Savings and Loan Commissioner of the State of Alabama, hereby certify that the change of location of the home office of _____ Savings and Loan Association _____, from _____ to _____, has been approved in accordance with law, towit: Such change of location of the home office will not unduly injure any properly conducted existing association in the same or neighboring communities; There is a reasonable probability of the usefulness and success of the association at such new location. IN WITNESS WHEREOF, I have hereunto set my hand and seal of my office, this _____ day of _____, 19____.

(SEAL)

Savings and Loan Commissioner.

ARTICLE IX—BUILDING AND LOAN ASSOCIATIONS

Section 46. BUILDING & LOAN ASSOCIATIONS TO COME UNDER THIS ACT. After the passage of this Act all Building & Loan Associations doing business in the State of Alabama shall immediately take the necessary steps to be qualified as Savings & Loan Associations under the meaning of this Act. Provided, however, such Building & Loan Association shall not be forced into liquidation, receivership or conservatorship, unless such Association shall fail to become Savings & Loan Associations, as hereinabove set out, before the expiration of a grace period of twelve months from the date of the approval of this Act; and it shall be the duty of the Building & Loan Commissioner to require all Building & Loan Associations to qualify and convert into Savings & Loan Associations. Any Building & Loan Association having its accounts insured by the Federal Savings & Loan Insurance Corporation, or its successor, shall immediately automatically be qualified as a Savings & Loan Association under the meaning of this Act; provided, however, there shall be included in, and made a part of the name of the Association, the words "Savings & Loan Association".

Section 46½. Any Building and Loan Association may, with the consent of the holders of the two-thirds ($\frac{2}{3}$) of the net book value of its outstanding shares of stock, assign and convey to a new corporation (or to trustees for it) to be organized under the general incorporation laws of the State, or as hereinafter provided, and be thereupon merged in such new corporation, upon the following terms and conditions: A. Each share-holder of such Building & Loan Association shall, upon the organization of the new corporation, be entitled to shares in the succeeding corporation of a value in the proportion which the actual book value of his stock in the Building & Loan Association, less any indebtedness thereon, bears to the total book value of all stock therein, less the total indebtedness thereon. B. Each mortgagor shall be allowed to continue to pay according to the tenor of his original mortgage, whether in default or not, the succeeding corporation having the same right to foreclose, as the Building & Loan Association; and any new or renewal mortgage shall include all arrearages; and shall contain no Building and Loan Feature. C. The association may pay in cash to any share-holder the value of any fraction of a share to which he may be entitled; and any Building and Loan share-holder converting his stock into stock of the succeeding corporation, who shall be entitled to a given number of the new shares, and, also, to the fraction of a share, may, by a cash payment, become entitled, by virtue of his fraction of a share, to an additional entire share. In lieu of forming such corporation as provided by the general laws of this state, such new corporation may be formed

after the holders of two-thirds ($\frac{2}{3}$) of the net book value of its outstanding shares of stock have consented thereto by the filing, by the directors of said Building and Loan Association in the office of the Judge of Probate of the County in which such association has its principal place of business or in which it was incorporated, of a statement setting forth; (1) the name of the new corporation, (2) the objects for which formed, (3) the location of its principal office, and (4) the amount of the total authorized capital stock, and upon the filing and recording of such statement the said association shall become a new body corporate, but shall not carry on any further business as a Building and Loan Association or as a Savings and Loan Association. The new body corporate shall by operation of law be vested with all the property and assets of such Building and Loan Association and shall be subject to all of its liabilities and such association shall not be subject to liquidation under this Act.

Section 47. **MODIFICATION OF REQUIREMENTS IN DISCRETION OF COMMISSIONER.** The Savings & Loan Commissioner may in his discretion modify the requirements for the qualification of a Building & Loan Association as a Savings & Loan Association so as to enable and facilitate the conversion of Building & Loan Associations into Savings & Loan Associations. Provided, however, that no Building & Loan Association shall be permitted to convert unless the converted Savings & Loan Association shall have its accounts insured by the Federal Savings & Loan Insurance Corporation, or its successor.

Section 48. **POWER OF COMMISSIONER TO EXTEND PERIOD FOR QUALIFICATION AND CONVERSION.** The Building & Loan Commissioner is hereby empowered to extend the twelve months grace period, hereinabove set out, if he deems that such extension is wise; provided, however, in no case shall the total grace period exceed 18 months.

Section 49. **NON-QUALIFYING BUILDING & LOAN ASSOCIATIONS.** All Building & Loan Associations not having qualified and been converted into Savings & Loan Associations within the time prescribed by this Act for such qualification and conversion shall be liquidated in the same manner provided for the liquidation of Savings & Loan Associations by sub-sections a, b, c, and d of Section 37 of Article V of this Act; and from the time such Building & Loan Association is placed in liquidation such Association shall no longer be deemed or recognized as an operating Building and Loan Association.

Section 50. **UNCLAIMED FUNDS OF ASSOCIATIONS IN LIQUIDATION.** Dividends and unclaimed share accounts remaining unpaid in the hands of the Receiver or Liquidating Agent of Building & Loan Associations or Savings & Loan Associations

in Liquidation for six months after the order for final distribution, shall be by him paid to the Savings & Loan Commissioner of the State and shall be deposited by the Savings & Loan Commissioner in one or more State Banks, at interest, to the credit of the Savings & Loan Commissioner in his official capacity in trust for the several creditors and account holders of the liquidated Building & Loan Association or Savings & Loan Association from which they were received, and the Savings & Loan Commissioner may pay over the money so held by him to the persons respectively entitled thereto upon being furnished satisfactory evidence of their right to the same. In case of doubtful or conflicting claims, he may require an order from the court having jurisdiction authorizing and directing the payment thereof. He may apply the interest earned by money so held by him towards defraying the expenses in the payment and distribution of such unclaimed funds to the creditors and account holders entitled to receive the same.

Section 51. FUNDS OF LIQUIDATED BUILDING & LOAN ASSOCIATIONS OR SAVINGS & LOAN ASSOCIATIONS TRANSMITTED TO TREASURER BY SAVINGS & LOAN COMMISSIONER. The Savings & Loan Commissioner shall certify to the Treasurer of the State a complete list of funds remaining in his hands uncalled for, which have been left in his hands in his official capacity, in trust for creditors and investors in liquidated Building & Loan Associations or Savings & Loan Associations from which they were received after they have been held by him for three years from the date of his having received the funds from the Liquidating Agent or Receiver of the Institution. Along with this certificate, he shall transmit to the Treasurer of the State the funds which he has so held in trust for three years. A copy of such certificate shall also be filed with the State Comptroller, who shall make a record thereof.

Section 52. CREDITOR OR INVESTOR IN BUILDING & LOAN ASSOCIATIONS OR SAVINGS & LOAN ASSOCIATIONS MAY RECEIVE AMOUNT DUE HIM. Any creditor or investor of a liquidated Building & Loan Association or Savings & Loan Association who has not been paid the amount standing to his credit, as thus certified to the State Treasurer, may apply to the Savings & Loan Commissioner for the amount due him, after it has been certified to the Treasurer of the State. The creditor or investor shall make an affidavit and offer proof of his identity and the amount due him by the liquidated Building & Loan Association or Savings & Loan Association. When satisfied as to the correctness of the claim and as to the identity of the person, the Savings & Loan Commissioner shall approve the claims and forward to the Comptroller, who shall audit the same, and if found correct, issue his warrant payable to the creditor or investor for the amount

shown by the records to be due such creditor or investor, which shall be paid by the Treasurer.

ARTICLE X. SEPARABILITY.

Section 53. SEPARABILITY PROVISION. If any provision of this act or the application thereof to any corporation, person, or circumstance is held invalid, the remainder of the act and the application of such provision to other corporations, persons, or circumstances shall not be affected thereby. •

ARTICLE XI. REPEALS.

Section 54. REPEALS. All laws and parts of laws pertaining to Building & Loan Associations are hereby expressly repealed, effective 18 months from the approval of this Act by the Governor; provided, however, all sections pertaining to taxes, licenses, fees, and assessments, in all their phases, in the aforesaid Building & Loan Laws, are hereby expressly reenacted, and such laws are made to apply likewise to Savings & Loan Associations under the meaning of this act; and also an Act entitled an Act to amend and extend Section 26 of an Act approved April 9, 1931, entitled "An Act Defining Building & Loan Associations, provide for their incorporation, methods of doing business, taxation, regulation and supervision, prescribing the terms and conditions upon which foreign Building & Loan Associations may carry on their business in Alabama; prescribing penalties for violation of the provisions of the Act, repealing acts and parts of acts in conflict herewith," and approved July 8, 1935, is hereby likewise expressly re-enacted.

Section 55. This Act shall be effective upon its passage and approval by the Governor.

Approved September 21, 1939.

No. 463)

(H. 874—Davis of Madison

AN ACT

To authorize municipalities in the State of Alabama to create and establish Municipal Electric Utility Boards; to provide for its membership; to provide the qualifications of members of the Board; to provide the oath of office of members of the Board; to provide the term of office and method of election of members of the Board; to provide the method of impeaching and removing from office members of the Board; to provide the method of filling vacancies in the Board; to provide for the compensation of the members of the Board; to provide for the organization of the Board; to provide for the meetings of the Board; to provide for copies of the records of the Board to be certified by the Secretary to be competent evidence in all courts; to provide the authority and duties of the said Board; to provide for the management and control of the Municipal Electric Distribution System of such municipality by said Board; to provide for the employment by the Board of a manager, clerks, stenographers, attorneys, linemen, repairmen and any other employees found necessary to be employed by said Board; to provide for official bonds of officers and employees of the Board handling money; to provide for

the collection, deposit and distribution of funds received from the operation of said Municipal Electric Distribution System; to provide for bond of depository of funds of the Board; to provide method of withdrawal of funds of the Board and signing of warrants for the payment of claims; to provide that in any expenditure for any new construction, additions, or replacements to the electric plant where the amount to be expended is more than \$1,000, the expenditure must be approved by the governing body of such municipality; to provide for an annual audit; and to provide for reports of the Board to the governing body of such municipality.

Be it Enacted by the Legislature of Alabama:

SECTION 1. CREATION OF MUNICIPAL ELECTRIC UTILITY BOARDS. Any municipality in the State of Alabama is hereby authorized within its discretion to create and establish, by ordinance, a municipal Electric Utility Board for such municipality, to be composed of three members.

Section 2. METHOD OF ELECTION AND TERM OF OFFICE OF THE MEMBERS OF THE BOARD. The governing body of such municipality shall elect the members of the Board. Immediately upon the creation and establishment of the Board, the governing body of such municipality shall proceed to elect one member to serve until the first day of July of the next ensuing year and until his successor is elected and qualified; one member to serve until the first day of July of the second ensuing year and until his successor is elected and qualified; and one member to serve until the first day of July of the third ensuing year and until his successor is elected and qualified. At the first regular meeting of the governing body of such municipality in the month of June of each year, the said governing body shall elect a successor of the member of the Board whose term expires on the first day of July following, and the person so elected shall become a member of the Board on the first day of July following and shall hold such position for a period of three years and until his successor is elected and qualified. Should such governing body fail to elect a member at its first meeting in the month of June, it shall do so at any succeeding regular meeting of such governing body. A member of the Board may succeed himself, if the governing body of such municipality desires to re-elect him. Whenever a vacancy occurs in the membership of the Board be resignation, death, or any other cause, the governing body of such municipality shall immediately fill said vacancy by electing another person to membership on the Board, who shall serve for the remainder of the unexpired term of the member he succeeds and until his successor is elected and qualified.

Section 3. QUALIFICATION OF MEMBERS OF THE BOARD—No person shall be eligible to membership on said board who is not a qualified elector of such municipality, or who is an officer of the municipality or an employee thereof, or who is a member of the governing body or whose term on the governing body expired within six months prior to his election on the Board.

Section 4. OATH OF OFFICE OF MEMBERS OF THE BOARD— Before entering upon the duties of his office, each member of the Board shall take and subscribe the following oath: "I do solemnly swear that I will support the constitution of the State of Alabama, and the constitution of the United States, and that I will faithfully, zealously, and impartially discharge the duties of the office upon which I am about to enter, without fear or favor, for the public welfare; so help me God." The successors to the members of the Board named in this Act shall take and subscribe the same oath.

Section 5. ORGANIZATION OF THE BOARD— At the first meeting of the Board, the members shall elect one of their number as Chairman and one of their number as Secretary, thereafter the Board shall annually elect from among their number a Chairman and a Secretary. Vacancies in the offices of Chairman and Secretary shall be filled by the Board, if and when the same may occur.

Section 6. COMPENSATION OF THE MEMBERS OF THE BOARD—Each member of the Board shall receive for his services, such compensation as authorized by the governing body of such municipality. The compensation to the members of the Board shall be paid in monthly installments from the money received from the operation of the Municipal Electric Distribution System.

Section 7. MEETINGS OF THE BOARD—The Board shall hold regular monthly meetings on the second Tuesday of each month and other meetings at such times and places as its members may elect, and the Chairman of the Board or any two members may call a meeting at any time he or they consider that the business demands that a meeting be held. The Chairman and one member or any two members of the Board shall constitute a quorum. A true record of all the proceedings of all meetings of the Board shall be kept by the Secretary. At the call of any member, the vote on any pending question shall be taken by ayes and nays, and the same shall be entered on the record. The record of the proceedings of said Board shall be open to any member of the governing body and to the public at all times, and a copy from said record, certified by the Secretary, shall be competent evidence in all courts.

Section 8. AUTHORITY AND DUTIES OF THE BOARD.—The Board shall have complete control of the Municipal Electric Distribution System of such municipality, and shall have authority to employ, upon terms to be fixed by the Board, but in no event for a term exceeding one year, and to discharge with or without cause, managers, cashiers, clerks, stenographers, attorneys, linemen, repairmen, laborers, and such other employees as are neces-

sary for the operation of such Municipal Electric Distribution System, except that in those cities where public employees are governed by a city wide civil service or merit system act all of such managers, cashiers clerks, stenographers linemen, repairmen, laborers and such other employees as are necessary for the operation of such system shall in all respects, both as to selection, employment, discharge tenure of office or employment and as to pay, promotion demotion and all other respects covered by said Civil Service or Merit System Act, be governed and controlled by said Civil Service or Merit system Act, Anything herein to the contrary notwithstanding. It shall have the power and authority and it shall be its duty to charge for and collect all accounts due for any service which the Municipal Electric Distribution system may furnish to its customers, upon rates to be provided and approved by the governing body of such municipality. The Board shall have the right to delegate to any manager which it may employ, the authority to employ and discharge employees which may be needed; to direct their work and to manage, control and operate the Municipal Electric Distribution System and to account to the Board for his acts in so doing, but his authority shall be restricted as the authority of the Board is restricted in this Act.

Section 9. OFFICIAL BONDS OF OFFICERS AND EMPLOYEES—All officers or employees of the Board handling money or exercising authority over property of the municipality shall, before entering upon the discharge of their duties, give bond with some Surety Company authorized to do business in the State of Alabama, as Surety, and payable to the municipality, to be approved by the Board, in such penalty as the Board may prescribe conditioned for the faithful discharge of the duties of his office or employment and faithfully to account for all moneys received or property coming into his possession in the capacity of his employment.

Section 10. IMPEACHMENT AND REMOVAL OF MEMBERS OF THE BOARD—Members of the Board may be removed from office in the manner and on the same grounds provided by the general law of this State for the impeachment and removal of officers, as set out in Section 175 of the Constitution of Alabama.

Section 11. ACCOUNTANT, EXPERT, EMPLOYED: DUTIES OF—The Board shall at least once a year appoint an expert accountant or firm of Accountants who shall make an examination in detail of all books and accounts of the Board to cover the period since the preceding examination, and make a full report in writing, under oath, to the Board of its findings at the Board's first meeting after completion of such report, a copy shall also be furnished the governing body of the municipality, and the same shall be spread upon the minutes of the Board, but the same per-

son or firm shall not be appointed or authorized to make such examination twice in succession. For this service said Accountant shall be paid such reasonable and proper sum as may be agreed upon.

Section 12. REPORTS OF BOARD TO GOVERNING BODY—Said Board shall make an annual report to the governing body of the municipality, showing in detail the receipts and expenditures for its preceding fiscal year; the physical condition of the property under the care of said Board, and any other matters of public interest connected with said Board.

Section 13. EXPENDITURES FOR CONSTRUCTIONS OR ADDITIONS—No expenditures for any new construction, additions, or replacements to the Municipal Electric Distribution System, or the equipment used by the same, shall be made by the Board where the total expense will be more than \$1,000.00 without the consent and approval of the governing body of the municipality.

Section 14. FUNDS, MONEY, ETC.—All funds of said Board shall be kept separate from the other funds of the municipality and in the Municipal Depositories and the same shall be withdrawn only in such sums and at such times as the same shall be actually required for the expenditures authorized by law, and only upon warrants signed by an employee of the Municipal Electric System designated by the Board, and counter-signed by a member of the Board designated by the Board, and issued for claims that have been audited and ordered paid by said Board and for salaries due Board members and employees for work performed and services rendered.

Section 15. COLLECTION, DEPOSIT, AND DISTRIBUTION OF MONEYS OF THE MUNICIPAL ELECTRIC DISTRIBUTION SYSTEM—All money collected from the sale of electric current, or received in any way from the use of the Municipal Electric Distribution System, shall be deposited in the Municipal Depositories and shall be distributed by the Board as required by the governing body of the municipality.

Section 16. BOND OF DEPOSITORY—The Board shall require from each Depository adequate bond or securities to secure the safety of funds on deposit, which bond or securities shall be in such sum as the Board shall fix, having due regard to the safety of the funds on deposit.

Section 17. The authority granted municipalities under the provisions of this act shall not be construed so as to repeal, restrict, modify or otherwise limit any authority now conferred on any municipality by any existing general, local or special law, or to affect any such Board created or existing by virtue of a local act.

Section 18. If any clause, sentence, section, or part of this Act

shall be declared invalid, it shall not render the remaining parts of the same invalid, but they shall remain in full force and effect.

Section 19. This Act shall go into effect immediately upon its approval by the Governor or upon its becoming a law without his approval.

Approved September 22, 1939.

No. 467)

(H. 930—Payne & Wright

AN ACT

To further provide for the powers, duties and responsibilities of the Alabama Institute for Deaf and Blind; to authorize and require the Alabama Institute for Deaf and Blind to set up an "Adult Blind Department"; and to provide an appropriation for carrying out the provisions of this act.

Be it Enacted by the Legislature of Alabama:

Section 1. That there shall be established at the Alabama Institute for Deaf and Blind an "Adult Blind Department".

Section 2. It shall be the duty of the Superintendent of said Alabama Institute for Deaf and Blind, under the supervision and direction of the Board of Trustees, to prepare and maintain a register of blind persons living in the State of Alabama, which shall describe the condition, cause of blindness, capacity for education and industrial training for each blind person registered, and shall give such other data as the Board may deem advisable.

Section 3. It shall be the duty of the Superintendent of said Alabama Institute for Deaf and Blind, under the supervision and direction of the Board of Trustees, to maintain a bureau of information, the object of which shall be to aid the blind, whose training is not otherwise provided for, in finding employment, in developing home industries, and in marketing their products. It shall in its discretion enter into a cooperative agreement with the State Board of Education to expend funds under the Civilian Rehabilitation Act for special vocational training, materials, tools, and books for use as a means in rehabilitating blind persons who may be in need of such services; and it may, through the employment of teachers, give home instruction to blind persons, provided that it shall not undertake the permanent support or maintenance of any blind person. The Superintendent is hereby authorized within his discretion, and subject to the control of the Board of Trustees, to use any part of the fund appropriated herein to purchase materials as a means of promoting home industries; such material to be used in the training of blind persons, after training, all material supplies to be converted into marketable products—the cost of this material to be credited to the fund provided under this Act for further use in assisting blind persons in establishing and main-

taining home industries. Records shall be kept showing the purchase of all equipment and supplies and the part of the expenditure of same made for training. In order that the provisions of this section may be made effective the Superintendent is hereby authorized to cooperate with other agencies in the State that may be interested in blind relief in establishing a sales agency for products made by the blind. The Superintendent, subject to the control of the Board of Trustees, may further cooperate with the State Board of Education through the Rehabilitation Service to provide at its discretion employment tools, supplies, and materials necessary in the rehabilitating of blind person, not otherwise provided for in this Act, and may expend funds provided herein for physical restoration of indigent blind persons when this is necessary to their rehabilitation.

Section 4. The Superintendent may nominate to the Board such teachers and agents as he may think necessary for the successful administration of this Act in the same manner as is now provided by law for the nomination of other assistants in said institution.

Section 5. There is hereby appropriated out of the State Treasury the sum of Four Thousand (\$4,000.00) Dollars annually, payable quarterly in advance, for paying the salaries of employees herein provided for and the expenses incurred hereunder.

Section 6. All laws and parts of laws in conflict herewith are hereby repealed, provided, however, that nothing contained herein shall be construed as repealing Sections 577 to 587, inclusive, of the Alabama School Code of 1927, it being the legislative intention to impose additional duties, powers and responsibilities upon the Alabama Institute for Deaf and Blind as provided in this Act.

Section 7. This Act shall become effective on October 1, 1939.

Approved September 15, 1939.

No. 468)

(H. 941—Stone, Megginson, Langan

AN ACT

To authorize the governing board in all counties having a population of not less than 100,000 and not more than 300,000 according to the last or any subsequent Federal Census to employ a matron for the county jail in said county; to fix her duties and provide for her compensation.

Be it Enacted by the Legislature of Alabama:

Section 1. In all counties having a population of not less than 100,000 and not more than 300,000 according to the last or any subsequent Federal Census the governing board of said county may and is hereby authorized and empowered to employ a matron for the county jail.

Section 2. Such matron shall look after the comfort and welfare of the female prisoners in the jail, and perform such other duties as she may be directed to perform by said governing board. She shall be dischargeable at the pleasure of said board.

Section 3. She shall receive a salary not to exceed \$1000.00 per annum, payable in equal monthly installments out of the County Treasury of said county as other county employees are paid.

Section 4. All laws or parts of laws in conflict herewith are hereby repealed.

Section 5. This act shall be operative and effective only until the first day of December 1940.

Approved September 15, 1939.

No. 474)

(H. 988—Dobbs & Golson

AN ACT

To authorize the appointment of an additional deputy sheriff in all counties of not less than 34,000 and not more than 35,000 population according to the last preceding or any subsequent federal census, to provide for fixing and payment of his compensation and to provide for his qualification, removal and appointment of his successor, and for the discontinuance of the office.

Be it Enacted by the Legislature of Alabama:

Sec. 1. That in all counties of this state of not less than 34,000 and not more than 35,000 in population according to the last preceding or any subsequent federal census, subject to the provisions hereinafter set out, the sheriff is allowed an additional deputy sheriff.

Sec. 2. Whenever the sheriff in such a county deems it necessary, he shall apply to the court of county commissioners or like governing body to be allowed such additional deputy, and when approval or authorization to that effect shall have been given by such governing body, by resolution spread upon the minutes, the sheriff shall be permitted to appoint such additional deputy. The sheriff shall have authority, at his discretion to remove such deputy and to appoint his successor upon removal, resignation or death of such deputy.

Sec. 3. The compensation of such additional deputy is hereby fixed at One Hundred Twenty-Five Dollars per month, payable in monthly installments out of the general fund of the county, upon presentation of claim thereof as in cases of other claims against counties.

Sec. 4. Before entering upon the duties of his office, said deputy shall execute bond in the sum of One Thousand Dollars, payable to the State of Alabama, conditioned and approved in the same man-

ner now provided in cases of bonds required of sheriffs, which bond shall be filed and recorded in the probate office of such county.

Sec. 5. The court of county commissioners or like governing body of such county or counties may at any time, whether such office of additional deputy is vacant or filled, revoke its order authorizing such appointment, such governing body being vested with the discretion in determining whether or not the need for such additional deputy continues; and the sheriff is likewise given authority to discontinue such office. In either event, the county shall no longer be liable for continued services under such appointment.

Sec. 6. If any section, clause or provision of this act shall be held invalid, remaining sections, clauses and provisions shall remain in full force and effect.

Section 7. This act shall be effective immediately upon its passage and approval.

Approved September 15, 1939

No. 475)

(H. 1001—Snyder.

AN ACT

To further regulate statutory inferior courts other than those created in lieu of justices of the peace in counties of the state having a population of 300,000 or more according to the last or any subsequent Federal census; to further provide for the service or execution of the processes of such courts, and define the powers and duties of the several sheriffs of the state and their deputies with respect to such processes; to further provide for the registration of judgments of such courts, the liens thereof and the issuance of executions thereon.

Be it Enacted by the Legislature of Alabama:

Section 1. That the processes of all statutory inferior courts (other than those created in lieu of justices of the peace) in counties of the state having a population of 300,000 or more according to the last or any subsequent Federal census, shall run to any lawful officer of the state and be served or executed by the sheriff (or his duly authorized deputy) of the county in which such processes are to be served or executed, provided that this section shall not be construed as affecting or altering the service or execution of processes to be served or executed in the county in which any such court is or may be located.

Section 2. That the judgments of any such court shall be subject to registration in the same manner and in accordance with the same procedure as is or may be provided by law for the registration of judgments of the Circuit Court, and the liens thereof shall attach and executions be issued thereon in the same manner and to the same extent and for the same length of time as is or may be provided by law with respect to circuit court judgments.

Approved September 21, 1939.

No. 481)

(H. J. R. 122—Brown of Covington)

HOUSE JOINT RESOLUTION

BE IT RESOLVED by the house, the senate concurring, that S B 468 be designated as the Young-Norman (of Bullock), bill.

Approved September 15, 1939.

No. 482)

(H. J. R. 126—McGowin)

HOUSE JOINT RESOLUTION

BE IT RESOLVED by the House, the Senate concurring, that Senate Bill 314 be known as the Poole-Langley Bill.

Approved September 15, 1939.

No. 483)

(S. 314—Poole—Langley)

AN ACT

To further provide for and regulate pensions for Confederate soldiers and sailors and their widows.

Be it Enacted by the Legislature of Alabama:

Section 1. That the Director of Archives and History, the Attorney General, and the Director of the Department of Finance, ex-officio, are appointed as the Alabama Pension Commission, whose duty it shall be to have full control and supervision of all pensions allowed to soldiers and sailors in the actual service of the army or navy of the Confederate States of America or of the State of Alabama, and pensions allowed to their widows. They shall have full authority to do and perform any and all acts whatsoever as are necessary to the full execution of this Act and all other provisions of law relating to pensions for Confederate soldiers and sailors and their widows, and in the discharge of their duties as such pension commissioners they may establish and promulgate any rules and regulations and prepare and publish all necessary blanks, forms, circulars and such other literature as may be necessary to carry out the purposes and intent of this Act now provided for specifically herein.

Section 2. That the State Auditor shall appoint a secretary to the Alabama Pension Commission who shall perform such duties as are required by the rules, regulations and directions of said Commission. The said secretary shall receive a salary of eighteen hundred dollars per annum, payable as the salaries of other State employees are paid, and shall be subject to all the provisions of the Merit System Act.

Section 3. That the Director of the Department of Finance, as a member of the Alabama Pension Commission, by correspondence with the War Department at Washington, or investigation of the Confederate records on file in the State or elsewhere, shall obtain all such information to make such roll complete, authentic and permanent as contemplated by this Act, and the entering of names of pensioners on the permanent pension roll by the secretary of the Alabama Pension Commission, and the cancellation of names struck from the roll by reason of death or other legal cause, shall be under the supervision and direction of the Director of the Department of Finance, who shall, when any application is made for a pension, submit to the War Department the facts of service set forth in such application for verification thereof, and the result of such inquiry shall be submitted by him with the application of the pensioner to the Alabama Pension Commission at the next meeting thereof, for their determination; and no application for pension shall be finally denied, whether witness proof of the facts set forth therein as now required by law, is made or not, until such report has been obtained and submitted. The Director of the Department of Finance shall have general supervision of a comparison by the secretary of the Alabama Pension Commission, of the pension warrants issued with payments made by the State Treasurer, and examine the same as to their rightful delivery and payment, and he may direct and require assistant examiners of accounts in their assignments to any county, to make careful investigation of the pension roll of such county and the actual delivery and receipt of pensions, and under his direction there shall be prepared at the end of each quarter, by the secretary of the Alabama Pension Commission, a list of all outstanding unpaid pension warrants, by number and name, a report thereof to be filed with the State Department of Public Welfare.

Section 4. That there shall be paid monthly to each and every Confederate soldier and sailor who is now on the pension roll of this State or who may hereafter be placed on the pension roll of this State the sum of \$65.00 for each month; and that there shall be paid monthly to each and every widow, of a Confederate soldier and sailor, who is now on the pension roll of this State or who may hereafter be placed on the pension roll of this State the sum of \$30.00 for each month, without regard to class. All of said pensions shall be paid monthly beginning on the first day of October, 1939. There is hereby continuously appropriated out of the State Treasury a sum which, in conjunction with the moneys derived from the one mill pension fund, shall be sufficient to carry out the provisions of this Act and all other provisions of law relating to pensions for Confederate soldiers and sailors and their widows.

Section 5. That beginning on the first day of October, 1939, all pensions to Confederate soldiers and sailors and their widows

are to be paid in monthly payments on the first day of each month by warrant drawn on the State Treasurer by the State Department of Public Welfare in favor of each and every pensioner for the amount due each pensioner as provided by law, payable out of the moneys in the State Treasury to the credit of the Confederate Pension Fund.

Section 6. That the State Department of Public Welfare shall deliver to the respective County Departments of Public Welfare all such warrants for pensioners on the pension roll of that county. The County Department of Public Welfare shall deliver such warrants to the payees in their respective counties either in person or by registered mail, return receipt requested. The County Department of Public Welfare shall, at the expiration of thirty days, return to the State Department of Public Welfare all undelivered pension warrants stating on said warrants the date of the return, the reason for such non-delivery, and if the payee is dead, the date of death, and such returned warrant shall be endorsed by the State Department of Public Welfare "cancelled" on the face thereof, and no other warrants shall be issued in the place of such cancelled warrants unless it be shown by satisfactory proof that such cancellation was erroneously made.

Section 7. That any Confederate soldier, sailor or widow who shall become a resident citizen of another State shall be dropped from the pension roll of this State, and the County Department of Public Welfare is expressly prohibited from delivering the pension warrant to any payee who is at the time of such delivery a resident citizen of another State. On the return of any such pensioner to the State and the reestablishment by him or her of residence in this State, the name of such pensioner shall be restored to the pension roll. Provided, however, that if a pensioner temporarily removes to another State, but does not abandon his or her legal residence in this State, such pensioner shall not be dropped from the pension roll but shall be retained thereon, and his or her warrant shall be sent by registered mail to the temporary address of such pensioner, return receipt requested.

Section 8. That should a pensioner die leaving a widow who would be entitled to a pension under the provisions of the statutes of this State relating thereto, or if there be no widow, leaving a minor child or children, or should a widow who is a pensioner die leaving a minor child or children, a warrant equal to the total amount of the next three monthly payments succeeding the death of said pensioner shall be issued and delivered, as other pension warrants are issued and delivered, to the widow, or if there be no widow, to the minor child or children of such pensioner; and should there be no widow or minor child of such deceased pensioner, the County Department of Public Welfare shall endorse such fact on the pension warrant and collect the same and apply the proceeds,

first, to the payment of the burial expenses, and, second, to the expenses of the last illness of the pensioner, attaching thereto a receipt or statement of payment of such expenses, any unexpended balance remaining to be returned to the State Treasury to the credit of the fund against which the warrant was drawn.

Section 9. That all laws and parts of laws, general, special, or local, in conflict with the provisions of this act be and the same are hereby expressly repealed.

Section 10. That this Act shall become effective upon the first day of October, 1939.

Approved September 16, 1939.

No. 484)

(S. 351—Rowe

AN ACT

To amend Sections 4, 5, 7, 8, 11 and 12 of An Act entitled "An Act to regulate and limit the use of the public highways in the State by Motor Trucks, semi-trailer trucks, semi-trailers and trailers; to define the powers of the State Highway Department and the State Highway Commission, Courts of County Commissioners and other bodies having like jurisdiction and incorporated cities and towns in respect thereof; to provide for the enforcement of this Act; and to prescribe penalties for violations thereof; and provide for the use of moneys arising from penalties and bond forfeitures collected under the provisions of this Act, and exempting certain of such motor trucks, semi-trailer trucks, semi-trailers and trailers from the provisions hereof, or certain of such provisions, and to repeal an Act, entitled 'An Act to prescribe the maximum size, width length and weight, including load limits of motor vehicles and combination of motor vehicles, operating upon the public highways of this State and to prescribe penalties for violations of this Act', and all laws or parts of laws in conflict or inconsistent with the provisions of this Act to the extent of such conflict or inconsistency," Approved October 6, 1932.

Be it Enacted by the Legislature of Alabama:

Section 1. That Section 4 of An Act entitled "An Act to regulate and limit the use of the public highways in the State by Motor Trucks, semi-trailer trucks, semi-trailers and trailers; to define the powers of the State Highway Department and the State Highway Commission, Courts of County Commissioners and other bodies having like jurisdiction and incorporated cities and towns in respect thereof; to provide for the enforcement of this Act, and to prescribe penalties for violations thereof; and provide for the use of moneys arising from penalties and bond forfeitures collected under the provisions of this Act, and exempting certain of such motor trucks, semi trailer trucks, semi trailers and trailers from the provisions hereof, or certain of such provisions, and to repeal an Act, entitled 'An Act to prescribe the maximum size, width, length and weight, including load limits of motor vehicles and combination of motor vehicles, operating upon the public highways of this State and to

prescribe penalties for violations of this Act,' and all laws or parts of laws in conflict or inconsistent with the provisions of this Act to the extent of such conflict or inconsistency," approved October 6, 1932, be and the same is hereby amended to read as follows: Section 4. WEIGHT (a) The wheels of all "Motor Trucks," "Semi-trailer trucks", "semi-trailers" and "Trailers" shall be equipped with pneumatic tires of sufficient traction surface in accordance with the capacity of such vehicles, same to be prescribed by the State Highway Department, and no person shall operate any such vehicle not so equipped. (b) No such vehicle shall carry a wheel load in excess of 8,000 pounds, or any axle load in excess of 16,000 pounds, nor shall it exceed 600 pounds per inch width of tire, measured by outside cross-section width of tire. (c) The term "axle load" as herein used means the total load of all wheels whose centers may be included between two parallel transverse verticle planes 40 inches apart. (d) No person shall operate on any State Highway any vehicle or combination of vehicles with a gross load in excess of 30,000 pounds. Provided, however, the gross load limit of motor vehicles or combination of motor vehicles upon the county roads shall not exceed 20,000 pounds except in such cases where the Court of County Commissioners, Board of Revenue, or like governing body of the County shall by resolution spread upon the minutes authorize a greater gross load limit upon the County roads of such County. Members of Courts of County Commissioners, Boards of Revenue or like governing bodies are hereby vested with full authority to enforce the provisions of this Act relating to county roads in their respective counties. (e) Under special and extraordinary circumstances the Highway Director, may in isolated cases only, grant to any one the right to haul a heavier load than is herein specified over a route to be designated by the Highway Director, provided said load is not harmful to the roads or bridges along said route, and, provided, further, that no county roads are included in said route.

Section 2. That Section 5 of an Act entitled "An Act to regulate and limit the use of the public highways in the State by Motor Trucks, semi-trailer trucks, semi-trailers and trailers; to define the powers of the State Highway Department and the State Highway Commission, Courts of County Commissioners and other bodies having like jurisdiction and incorporated cities and towns in respect thereof; to provide for the enforcement of this Act, and to prescribe penalties for violations thereof; and provide for the use of moneys arising from penalties and bond forfeitures collected under the provisions of this Act, and exempting certain of such motor trucks, semi-trailer trucks, semi-trailers and trailers from the provisions hereof, or certain of such provisions, and to repeal an Act, entitled 'An Act to prescribe the maximum size, width, length

and weight, including load limits of motor vehicles and combination of motor vehicles, operating upon the public highways of this State and to prescribe penalties for violations of this Act; and all laws or parts of laws in conflict or inconsistent with the provisions of this Act to the extent of such conflict or inconsistency," approved October 6, 1932, be and the same is hereby amended to read as follows: Section 5. HEIGHT. No person shall operate on any highway any motor vehicle, motor truck or semi-trailer whose height including any part of body or load shall exceed 150 inches, but nothing herein contained shall be construed to require public authorities to provide sufficient vertical clearance to permit the operation of vehicles with a height of 150 inches.

Section 3. That Section 7 of an Act entitled "An Act to regulate and limit the use of the public highways in the State by Motor Trucks, semi-trailer trucks, semi-trailers and trailers; to define the powers of the State Highway Department and the State Highway Commission, Courts of County Commissioners and other bodies having like jurisdiction and incorporated cities and towns in respect thereof; to provide for the enforcement of this Act, and to prescribe penalties for violation thereof; and provide for the use of moneys arising from penalties and bond forfeitures collected under the provisions of this Act, and exempting certain of such motor trucks, semi-trailer trucks, semi trailers and trailers from the provisions hereof, or certain of such provisions, and to repeal an Act entitled 'An Act to prescribe the maximum size, width, length and weight, including load limits of motor vehicles and combination of motor vehicles, operating upon the public highways of this State and to prescribe penalties for violations of this Act,' and all laws or parts of laws in conflict or inconsistent with the provisions of this Act to the extent of such conflict or inconsistency," approved October 6, 1932, be and the same is hereby amended to read as follows: Section 7. LENGTH. No person shall operate on any highway any motor truck whose length, including any part of the body or load, shall exceed 30 feet, nor any semi-trailer truck, whose length, including any part of body or load shall exceed 40 feet, provided, however, that loads of poles, logs, lumber, structural steel, piping and timber may exceed the length herein fixed.

Section 4. That Section 8 of an Act entitled "An Act to regulate and limit the use of the public highways in the State by motor trucks, semi-trailer trucks, semi-trailers and trailers; to define the powers of the State Highway Department and the State Highway Commission, Courts of County Commissioners and other bodies having like jurisdiction and incorporated cities and towns in respect thereof; to provide for the enforcement of this Act, and to prescribe penalties for violations thereof; and provide for the use of moneys arising from penalties and bond forfeitures collected under the

provisions of this Act, and exempting certain of such motor trucks, semi-trailer trucks, semi-trailers and trailers from the provisions hereof, or certain of such provisions, and to repeal an Act, entitled 'An Act to prescribe the maximum size, width, length and weight, including load limits of motor vehicles and combination of motor vehicles, operating upon the public highways of this State and to prescribe penalties for violations of this Act; and all laws or parts of laws in conflict or inconsistent with the provisions of this Act to the extent of such conflict or inconsistency," approved October 6, 1932, be and the same is hereby amended to read as follows: Section 8. SPEED. No person shall operate any motor truck or motor vehicle used primarily for the transportation of property or any semi-trailer truck on any highway outside cities or incorporated towns at a greater rate of speed than 40 miles per hour, and inside the limits of cities and incorporated towns the maximum speed limit shall be 20 miles per hour.

Section 5. That Section 11 of an Act entitled "An Act to regulate and limit the use of the public highways in the State by motor trucks, semi-trailer trucks, semi-trailers and trailers; to define the powers of the State Highway Department and the State Highway Commission, Courts of County Commissioners and other bodies having like jurisdiction and incorporated cities and towns in respect thereof; to provide for the enforcement of this Act, and to prescribe penalties for violations thereof; and provide for the use of moneys arising from penalties and bond forfeitures collected under the provisions of this Act, and exempting certain of such motor trucks, semi-trailer trucks, semi-trailers and trailers from the provisions hereof, or certain of such provisions, and to repeal an Act, entitled 'An Act to prescribe the maximum size, width, length and weight, including load limits of motor vehicles and combination of motor vehicles, operating upon the public highways of this State and to prescribe penalties for violations of this Act,' and all laws or parts of laws in conflict or inconsistent with the provisions of this Act to the extent of such conflict or inconsistency," approved October 6, 1932, be and the same is hereby amended to read as follows: Section 11. PENALTIES. The operation of any motor truck, semi-trailer truck or trailer, in violation of any section of this Act, or of the terms of any permit issued hereunder, shall constitute a misdemeanor, and the owner thereof, if such violation was with his knowledge or consent, and the operator thereof, shall on conviction be fined not less than One Hundred Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00), and may also be imprisoned or sentenced to hard labor for the county for not less than thirty days nor more than sixty days.

Section 6. That Section 12 of an Act entitled "An Act to regulate and limit the use of the public highways in the State by motor

trucks, semi-trailer trucks, semi-trailers and trailers; to define the powers of the State Highway Department and the State Highway Commission, Courts of County Commissioners and other bodies having like jurisdiction and incorporated cities and towns in respect thereof; to provide for the enforcement of this Act, and to prescribe penalties for violations thereof; and provide for the use of moneys arising from penalties and bond forfeitures collected under the provisions of this Act, and exempting certain of such motor trucks, semi-trailer trucks, semi-trailers and trailers from the provisions hereof, or certain of such provisions, and to repeal an Act, entitled 'An Act to prescribe the maximum size, width, length and weight, including load limits of motor vehicles and combination of motor vehicles, operating upon the public highways of this State and to prescribe penalties for violations of this Act,' and all laws or parts of laws in conflict or inconsistent with the provisions of this Act to the extent of such conflict or inconsistency," approved October 6, 1932, be and the same is hereby amended to read as follows: Section 12. All courts having jurisdiction of misdemeanors punishable by a fine of Five Hundred Dollars (\$500.00) or less and by imprisonment or hard labor, as above provided, shall have concurrent jurisdiction of the trial of all offenses under this Act committed within their respective territorial jurisdictions.

Section 7. That all laws or parts of laws, and all rules and regulations of the State Highway Department (if any), or parts thereof, in conflict or inconsistent with the provisions of this Act, be and the same are hereby expressly repealed.

Section 8. That this Act shall become effective immediately upon its passage and approval by the Governor or its otherwise becoming a law.

Approved September 19, 1939.

No. 485)

(S. 369—Simpson

AN ACT

To establish a more humane system for caring for the needy aged in the State of Alabama and the several counties thereof by providing for old age assistance; to define the persons entitled thereto, and to provide for the ascertainment and determination of the qualifications of applicants therefor; to further provide for and regulate the payments of pensions under the provisions of the laws authorizing the payment of Confederate pensions to Confederate soldiers, sailors and their widows; to provide for the payment thereof; to make an appropriation for the same; to provide for the administration of such system and to define offenses against this act and to fix punishment for such offenses; and to provide for cooperation with the Government of the United States and its agencies in caring for the needy aged, and to repeal all laws in conflict herewith.

Be it Enacted by the Legislature of Alabama:

Section 1. DEFINITIONS. The term "State Department" as used in this act shall mean the State Department of Public Welfare; the term "County Department" as used in this act shall mean the County Department of Public Welfare; the term "County Board" as used in this act shall mean the County Board of Public Welfare; the term "County Director" as used in this act shall mean the Director of the County Department of Public Welfare; the term "county governing body" as used in this act shall mean the Board of County Commissioners, Board of Revenue, Court of County Commissioners or other Court or Board of like jurisdiction of a county in this State; the term "he" or "him" or "his" as used in this act shall be interpreted to mean he or she or him or her or his or her.

Section 2. COUNTIES AND MUNICIPALITIES TO PROVIDE FUNDS. The county governing bodies, in addition to the powers now given them, shall have the power to provide and make available to the county departments funds in their treasuries for the purpose of carrying out the provisions of this act. It shall be the duty of the county governing body in each county to provide for each person eligible for old age assistance a sum which, when added to State and Federal matching funds and to the income, resources and maintenance available to him will enable him to have a reasonable subsistence in proportion to his accustomed standard of living. Incorporated municipalities may contribute from funds in their treasuries, funds to the counties in which they are located for such purpose.

Section 3. TO WHOM OLD AGE ASSISTANCE PAYABLE. Old age assistance shall be payable under this act to any needy person who has attained the age of 65 years, who complies with the requirements of this act, and who (a) has resided in the state for at least one year immediately preceding his application for old age assistance; (b) has resided in and been an inhabitant of the county in which application is made for at least one year immediately preceding the date of the application, or has a legal settlement in the county in which the application is made. Any person otherwise qualified who has resided in the state for one year immediately preceding the application and who has no legal settlement in any county in the state, shall file his application in the county in which he is residing, and his assistance, if granted, shall be paid entirely from State funds until he can qualify as having a legal settlement in the said county. For the purpose of this act, every person who has resided one year or more in any county in this state shall thereby acquire a legal settlement in such county which he shall retain until he has acquired a legal settlement elsewhere or until he has been absent voluntarily and continuously for

one year therefrom; (c) has no income or has income which, when added to contributions in money, subsistence or service from legally responsible relatives or from any other source, is inadequate to provide a reasonable subsistence in proportion to his accustomed standard of living; provided, however, that where an applicant for assistance has an income of \$480.00 or more, annually, no assistance shall be granted or allowed; (d) has not directly or indirectly disposed or deprived himself of any property for the purpose of qualifying for the benefits of this act; (e) is not an inmate of any public institution at the time assistance is paid. Nothing contained in this act shall be construed as prohibiting any person who is an inmate of a public institution from applying for assistance hereunder.

Section 4. APPLICATION FOR ASSISTANCE; INVESTIGATION; DETERMINATION OF ELIGIBILITY AND AMOUNT OF ASSISTANCE. Application for assistance shall be filed with the county department in the manner and form prescribed by the State Department and shall contain such information as the State Department may require. An investigation and record shall be promptly made by the county department of the circumstances of the applicant. Upon the completion of the investigation the county director shall determine whether the applicant is eligible for assistance under the provisions of this act and the rules and regulations of the State Department and the amount of assistance he shall receive. The amount of such assistance shall be determined with due regard to the conditions existing in each case, subject to the rules, regulations and standards of the State Department and the provisions of this act, but the maximum amount for which any applicant is approved shall not exceed the maximum for which Federal matching is available under the provisions of the Social Security Act or any amendment thereto. It is provided, however, that this provision shall not in anywise affect the amounts paid to a Confederate pensioner now or hereafter placed on the pension roll of this state. The county director shall give notice in writing to the applicant of the action taken on his application.

Section 5. REVIEW BY COUNTY BOARD. The county board shall have the power to require a report of the finding and award of the county department in each case, to review such finding and award, and either to approve, disapprove or amend such award.

Section 6. APPEAL AND FAIR HEARING. In the event an application is not acted upon within a reasonable time by the county department, or is denied, or in case the amount or terms of an award or of any modification thereof by the county department or the county board be deemed inadequate or unjust by the applicant, he may demand a review of his case before the State De-

partment, which Department shall review all records and data on the case and shall make such additional investigation as it deems necessary. The opportunity for a fair hearing shall be granted the applicant by the State Department and at this hearing any party at interest may appear and present any relevant facts. The action of the State Department on any appeal shall be final.

Section 7. REVIEW BY THE STATE DEPARTMENT. It shall be the duty of the State Department to review all disallowances of applications and all awards and modifications of awards made by the county department or county board of each county. The State Department may at any time upon its own motion, after notice to the applicant and to the county board or county department and due opportunity for a hearing, make such decision as to the granting of assistance and the amount and terms thereof as in its opinion is justified by the facts, and is in conformity with the provisions of this act, and such decision shall be final and shall be binding upon the county and applicant and shall be complied with by the county department. No decision of the State Department shall increase the award made by a county department except in a case where under the provisions of Section 6 hereof the applicant has demanded a review of the award.

Section 8. REDUCTION, CANCELLATION OR CONTINUANCE OF ASSISTANCE GRANT WHEN RECIPIENT BECOMES POSSESSED OF PROPERTY OR INCOME. If at any time the recipient of old age assistance, or the husband or wife of such recipient, shall become possessed of any property or income in excess of that owned or being received at the date of the application or if at any time any relative of the recipient responsible in law for his support, becomes able to support the recipient, in whole or in part, it shall be the duty of the recipient immediately to notify the county department of the facts in the case. The county department upon such notification, or upon otherwise learning the facts, shall, after investigation, continue, reduce or cancel the amount of the grant as the facts may warrant. Its action in this respect shall be subject to appeal and review as provided in Sections 6 and 7 above.

Section 9. EXEMPTION OF ASSISTANCE GRANTS FROM TAXES. All amounts paid or payable as old age assistance shall be exempt from any tax levied by the state or any subdivision thereof and shall be exempt from levy, garnishment, attachment or any other process whatsoever and shall be inalienable, and in the case of bankruptcy shall not pass to the trustee or other person acting on behalf of the creditors of the recipient of old age assistance.

Section 10. PENALTY FOR FALSE REPRESENTATION. Any person who by means of a false statement knowing it to be

false, or wilful misrepresentation or by impersonation or other fraudulent device obtains or attempts to obtain or aids or abets any person in obtaining an old age assistance grant to which such person is not entitled or a larger amount of grant than that to which he is justly entitled, shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than \$500.00 and may be sentenced to hard labor for the county for not exceeding twelve months, or both.

Section 11. DUTIES OF COUNTY DIRECTOR. The county director shall perform the duties herein specified and such other duties in the administration of this act as the county board may from time to time designate, subject to the rules and regulations of the State Department. The county director shall make such reports to the State Department and furnish such information to the State Board of Public Welfare as may be required by it.

Section 12. DUTIES OF THE STATE DEPARTMENT. The State Department shall supervise the administration of old age assistance under this act. The State Department shall prescribe the form of, print and supply to county directors such forms as it may deem advisable. The State Department shall make rules and regulations necessary for the carrying out of the provisions of this act to the end that old age assistance may be administered uniformly throughout the state, having regard for the varying costs of living in different parts of the state, and that the spirit and purpose of this act may be complied with. All such rules and regulations made by the State Department shall be binding upon its agents and subordinates and all others charged by law with the administration of this act in this state. Within 90 days after the close of each fiscal year, the State Department shall make a report to the Governor for such year, which shall include a full account of the administration of this act, the expenditure of all funds hereunder, adequate statistics concerning old age assistance within the state, and such other information and recommendations as the State Department may deem advisable. The State Department shall make such reports and furnish such information as may be required by the Federal Social Security Board or other Federal Agency which may be provided for the administration of Federal aid to state systems of old age assistance.

Section 13. PARTICIPATION OF STATE, COUNTY AND FEDERAL GOVERNMENT IN THE PAYMENT OF OLD AGE ASSISTANCE GRANTS. The county involved and the State shall contribute equally to the payment of old age assistance grants; the State and local funds so contributed and made available shall in turn be used to meet Federal matching for such purpose in the most advantageous proportion permitted by law from time to time.

Section 14. CONFEDERATE PENSIONERS ELIGIBLE FOR OLD AGE ASSISTANCE. Any person entitled to any Confederate pension under the provisions of the laws authorizing the payment of such pensions to Confederate soldiers, sailors and their widows, who may also be eligible for old age assistance under the terms of this act, shall be required to make application for assistance as herein provided. Any assistance actually received by any such person under the terms of this act shall be deducted from the pension due such person under the provisions of such Confederate pension laws. Nothing herein contained however shall ever under any circumstances be construed or allowed to cause a Confederate pensioner to receive less than he or she would, but for the passage of this act.

Section 15. ALLOCATION OF FUNDS FOR ADMINISTRATION. The funds allotted to the State by the Federal Social Security Board under the Federal Social Security Act, or any act amendatory thereof, and received by the State from the United States for the administration of this act shall be apportioned by the State Department for the use of the State Department and the several county departments in such amounts and at such times as may be prescribed by the rules and regulations promulgated by the State Board, provided, however, that not less than one-half of such funds shall be apportioned to the several county departments.

Section 16. APPLICANTS HOSPITALIZED. In the event an applicant or recipient of assistance hereunder is so physically incapacitated that it is necessary for him to be hospitalized, the county department is authorized to make such arrangements as are necessary to secure such hospitalization even though the amount to be expended exceeds the maximum assistance grant allowable to the applicant hereunder. The county department may make contracts for this hospitalization with any public or private institution or person.

Section 17. APPROPRIATIONS—STATE FUNDS. There is hereby appropriated to the State Department for old age assistance purposes out of the proceeds from the levy of the one mill tax for the relief of needy Confederate soldiers and sailors and their widows, all the surplus or residue thereof after the payment in full of the pensions to Confederate soldiers and sailors and their widows and other charges against said fund set out in the provisions of the laws authorizing the payment of such pensions to Confederate soldiers and sailors or their widows, and in making this appropriation it is hereby declared to be the legislative policy that the Department of Public Welfare shall expend all the surplus or residue hereby appropriated and all monies received by it from the Federal Government as matching of any or all funds expended for Confederate pensions or as matching of the surplus or residue here-

by appropriated, for old age assistance purposes exclusively, insofar as is possible under existing laws and the rules and regulations of the Federal Government and of the Department of Public Welfare in regard thereto, before any part thereof may be expended for any other purposes of the Department of Public Welfare. Subject to the approval of the Governor there is also hereby appropriated out of any funds in the State Treasury not otherwise appropriated the sum of \$25,000 for each of the fiscal years 1939 - 40, 1940 - 41, 1941 - 42, and 1942 - 43, said sums to be used for old age assistance purposes only as now provided by law.

Section 18. TRANSFERS FROM ONE COUNTY TO ANOTHER. Any person who is receiving assistance hereunder in any county in this state, and who moves to another county in the state, shall become the responsibility of the county to which he has moved after he has lived there for a period of one year. Where a person receiving old age assistance removes from the county in which he has an established residence or settlement, such county shall be responsible for any assistance grants to such person for a period of one year after he has moved out of the county. The State Department shall have authority to prescribe regulations regarding transfers of assistance recipients from one county to another and in case two or more counties are unable to agree with reference to a transfer, the decision shall be made by the State Department and shall be binding upon the counties concerned.

Section 19. SEVERABILITY. The fact that any clause, sentence, paragraph or section hereof may be declared unconstitutional by a court of competent jurisdiction shall not result in the remainder of the act being abandoned or declared void, but the Legislature now declares its intention to enact such remaining parts independently of and notwithstanding the striking down of such unconstitutional part.

Section 20. REPEAL OF CONFLICTING LAWS. That the act entitled "An Act to establish a more humane system for caring for the needy aged in the State of Alabama and the several counties thereof by providing for old age pensions; to define the persons entitled thereto, and to provide for the ascertainment and determination of the qualifications of applicants therefor; to further provide for and regulate the payment of pensions under Article 1 of Chapter 55 of the Code of Alabama of 1923, as amended; to provide for the payment thereof; to make an appropriation for the same; to provide for a lien on the property of certain recipients of old age pensions and to provide for the enforcement thereof, to provide for the administration of such system and to define offenses against this Act and to fix punishment for such offenses; and to provide for cooperation with the Government of the United States and its agencies in caring for the needy aged; and to repeal

all laws in conflict herewith", Approved September 14, 1935, as amended by an act entitled "An Act to amend the caption and Sections 2, 4, 5, 6, 7, 8, 9, 10, 13, 14, 15, 16 and 18 and to repeal Sections 21, 22 and 23 of an act entitled, 'An Act to establish a more humane system for caring for the needy aged in the State of Alabama and the several counties thereof by providing for old age pensions; to define the persons entitled thereto, and to provide for the ascertainment and determination of the qualifications of applicants therefor; to further provide for and regulate the payment of pensions under Article 1 of Chapter 55 of the Code of Alabama of 1923, as amended; to provide for the payment thereof; to make an appropriation for the same; to provide for a lien on the property of certain recipients of old age pensions and to provide for the enforcement thereof, to provide for the administration of such system and to define offenses against this Act and to fix punishment for such offenses; and to provide for cooperation with the Government of the United States and its agencies in caring for the needy aged; and to repeal all laws in conflict herewith,' Approved September 14, 1935," Approved March 4, 1937, and all laws and parts of laws in conflict herewith be and the same are hereby repealed.

Section 21. **EFFECTIVE DATE.** That this Act shall become effective immediately upon its passage and approval by the Governor.

Approved September 16, 1939.

No. 486)

(H. 687—Dominick

AN ACT

To fix the compensation of, and to provide for the payment of the compensation and expenses of the members of the Board of Nurses' Examiners and Registration for the State of Alabama; to provide for and authorize the employment of an executive officer by said Board; to provide for and to prescribe the duties and qualifications of such executive officer; to provide for the keeping of an official register of all applicants for certificates of registration as registered nurses, to specify what such official register shall show as to each such applicant, to make said register prima facie evidence of all matters therein contained, and to provide that said register shall be open at all reasonable times to public inspection; to provide for and authorize the payment of compensation and expenses to said executive officer; to provide for the giving of bond by said executive officer, the approval thereof and the payment of the premium therefor; to provide for an audit of the books and accounts of said executive officer by the State Auditor without expense to the said Board; to provide for copies of such audit to be submitted to each member of the said Board, and to the Alabama State Nurses Association; to provide for and authorize the payment of any claims heretofore incurred by the board of nurses' examiners for the State of Alabama, or hereafter incurred by the said Board of Nurses' Examiners and Registration, and the expenditure of funds received by said board for the purpose of elevating the standards of schools of nursing and promoting the educational and profes-

sional welfare of nurses and nursing in this state; and to provide that all money expended by the said Board shall be paid out of excess funds arising from examination fees and from re-registration fees and shall not be paid out of the State Treasury; and to repeal all laws in conflict with this Act, and expressly repealing Section 1185 of the Code of Alabama of 1923, as amended by an Act of the Legislature of 1927 and approved by the Governor September 2, 1927.

Be it Enacted by the Legislature of Alabama:

Section 1. The members of the Board of Nurses' Examiners and Registration of the State of Alabama shall receive five dollars per day for each day that the Board is actually in session and functioning as a Board, together with necessary expenses incurred in the discharge of their duties. The Board shall employ an executive officer, who shall not be a member of the Board of Nurses' Examiners and Registration, who shall be appointed by the Board and shall hold office at the pleasure of the Board, and who shall perform such duties as may be specified by the Board from time to time; and who shall be responsible to said Board for the satisfactory performance of such duties. Said executive officer shall keep an official register of all applicants for certificates of registration as registered nurses. Said register shall show the name, age, nativity, place of residence and photograph of each applicant, and also whether said applicant was examined, registered or rejected by the board of nurses' examiners and registration. Said register shall be prima facie evidence of all matters therein contained and shall be open at all reasonable times to public inspection. Said executive officer shall be a graduate of an accredited school of nursing and shall have had not less than five years experience as a registered nurse, and before assuming office under said Board, shall be a registered nurse in Alabama. Said executive officer shall give full time to the work of the Board, free from any other remunerative position, or work, and shall receive such salary as may be fixed by the Board from time to time, commensurate with the duties performed, together with such necessary expenses as may be authorized and allowed by the Board. Said salary and expenses shall be paid out of the monies received by the Board under the provisions of law, and no part of the expenses incurred by the Board shall be paid out of the State Treasury. Said executive officer shall be bonded for the faithful performance of the duties of the office in the sum of not less than five thousand dollars, the bond to be approved by the Board, and the premium therefor shall be paid out of the funds of the Board. All books and accounts of said executive officer shall be audited annually by the State Auditor without expense to the Board. Copies of said audit shall be submitted promptly to each member of the Board and to the Alabama State Nurses Association. Any remaining funds, after all claims of the classes above named have been paid, may be used by the Board

to pay any claims heretofore incurred by the board of nurses' examiners for the State of Alabama, or hereafter incurred by said board of nurses' examiners and registration, for the purpose of elevating the standards of schools of nursing and of promoting the educational and professional welfare of nurses and nursing in this state. All money thus expended by this board shall be paid out of excess funds arising from examination fees and from re-registration fees, and no funds or monies used for such purpose shall be paid out of the state treasury.

Section 2. Be it further enacted that all laws and parts of laws in conflict with the provisions of this Act be, and the same hereby are, repealed.

Section 3. Be it further enacted that Section 1185 of the Code of Alabama of 1923, as amended by an Act of the Legislature of 1927, and approved by the Governor on September 2, 1927, be, and the same hereby is, expressly repealed.

Section 4. That this Act shall go into effect and become operative immediately upon its passage and approval by the Governor.

Approved September 15, 1939.

No. 487)

(H. 688—Dominick

AN ACT

To amend Sections 1180, 1181, 1182, 1183, 1184 and 1186 of the Code of Alabama of 1923, and to amend Section 1187 of the Code of Alabama of 1923, as amended by an Act of the Legislature of 1927 and approved by the Governor September 2, 1927, and as further amended by an Act of the Legislature of 1931, and approved by the Governor July 30, 1931.

Be it Enacted by the Legislature of Alabama:

Section 1. That Section 1180 of the Code of Alabama of 1923, be amended so as to read as follows: 1180. BOARD OF NURSES' EXAMINERS AND REGISTRATION CREATED. A board to be known as the Board of Nurses' Examiners and Registration for the State of Alabama is created to consist of seven members, five of whom shall be appointed by the Governor,—three of the five to be appointed by the Governor shall be graduate nurses and two of the five to be appointed by the Governor shall be physicians,—and the President of the Alabama State Nurses Association and the President of the Alabama State League of Nursing Education shall be Ex-officio members of the State Board of Nurses' Examiners and Registration, making a total of seven members, each with equal rights and responsibilities. The Ex-officio members shall hold membership on the board during their terms of office in the respective organization heretofore mentioned.

Section 2. That Section 1181 of the Code of Alabama of 1923, be amended so as to read as follows: 1181. APPOINTMENT OF EXAMINING AND REGISTRATION BOARD BY THE GOVERNOR. The Alabama State Association of graduate nurses shall, through its executive committee, submit to the Governor a list containing the names of four licensed physicians of good standing in their profession, together with the names of six nurses, each of whom shall have graduated from a training school connected with a general or private hospital requiring not less than two years training, and who shall have been engaged in nursing for not less than five years after graduation, and the Governor shall appoint five members of the board from said list.

Section 3. That Section 1182 of the Code of Alabama of 1923 be amended so as to read as follows: 1182. TERM OF OFFICE; VACANCY. The present members of the board of nurses' examiners for the State of Alabama, shall hold office and be members of the board of nurses' examiners and registration, for the respective terms for which they were heretofore appointed. Each of the five members of said board hereafter appointed by the Governor shall serve for a term of three years and until his or her successor is appointed and qualified. An unexpired term of any member of the board appointed by the Governor caused by death, resignation, or otherwise, shall be filled by the governor in the same manner as the original appointment is made.

Section 4. That Section 1183 of the Code of Alabama of 1923, be amended so as to read as follows: 1183. OFFICERS OF BOARD; SEAL OF BOARD; RULES TO BE ADOPTED. The members of the board shall annually, in the month of October, select from their number a chairman, and a secretary to keep the minutes of the board. Four members of the board shall constitute a quorum. Special meetings of said board shall be called by the secretary upon the written request of any two members. It shall adopt a seal which shall include the words "Board of Nurses' Examiners and Registration of Alabama", and the imprint shall be placed on all certificates and warrants issued by it. Said board shall be authorized to make such rules as may be necessary to govern its proceedings, and to carry into effect the purposes of this article.

Section 5. That Section 1184 of the Code of Alabama of 1923 be amended so as to read as follows: 1184. RECORD OF MEETINGS. The Secretary of the board shall keep a record of all meetings of the board.

Section 6. That Section 1186 of the Code of Alabama of 1923 be amended so as to read as follows: 1186. EXAMINATIONS; NOTICE OF. The Board shall hold examinations of applicants for certificates of registration of trained nurses in Alabama at least

twice every year, at such times and places as the Board may deem expedient. Notice of such examinations shall be given in the public press, in at least one nursing journal, and by mail to every applicant and to every approved training school for nurses in Alabama, at least thirty days prior to each examination.

Section 7. That Section 1187 of the Code of Alabama of 1923, as amended by an Act of the Legislature of 1927, and approved by the Governor September 2, 1927, and as further amended by an Act of the Legislature of 1931, and approved by the Governor July 30, 1931, be amended so as to read as follows: 1187. EXAMINATION OF APPLICANTS; REGISTRATION. Any person desiring to obtain a certificate of registration under this article shall first make application in writing, paying to said Board of Nurses' Examiners and Registration a fee of ten dollars (\$10.00) and shall later present himself, or herself, at the regular examination. Said board shall determine that said applicant is of the age of twenty-one (21) years, of good moral character, has received an education through four years of high school, or its equivalent. Said board shall also determine that said applicant has graduated from a school of nursing connected with a general hospital or sanitarium, as defined in section 1193 of this Code, where not less than three years of consecutive training, with a systematic course of instruction is given, or has graduated from a school of nursing in connection with a hospital in good standing, supplying a systematic training corresponding with the above standards, which training may be obtained in one or more affiliated hospitals. The said board shall have the power to grant advance credit on the course of study prescribed in the next preceding sentence but not in any case in excess of twelve months, in the discretion of the board, for scholastic and laboratory work done in an accredited college institution satisfactory to the board. Said board shall then proceed to examine said applicants in elementary anatomy and physiology, bacteriology, hygiene and dietetics, in surgical, medical, obstetrical and practical nursing, and in the care and nursing of infants and children. Said board upon said applicant passing said examination to its satisfaction, shall cause the name of the applicant to be entered upon the register kept for the purpose, and shall cause to be issued to said applicant a certificate of registration authorizing him or her to practice the profession of nursing as a registered nurse.

Approved September 15, 1939.

No. 488)

(H. 964—Scott

AN ACT

To define homesteads as herein used and to exempt such homesteads from such State ad valorem taxation.

Be it Enacted by the Legislature of Alabama:

Section 1. The word "homestead" as herein used is the "homestead" as now defined by the Constitution and Laws of the State of Alabama.

Section 2. Homesteads, as herein defined, are hereby exempted from all State ad valorem taxes beginning October 1, 1937.

Section 3. In no case shall the exemption herein made apply to more than one person, head of the family, nor shall said exemption exceed Two Thousand Dollars (\$2,000.00) in assessed value, nor one hundred sixty (160) acres in area.

Section 4. That this act shall become effective upon its passage and approval by the Governor.

Approved September 15, 1939.

No. 489)

(S. 303—Young

AN ACT

Prohibiting boxing, sparring and wrestling matches and exhibitions except such boxing, sparring and wrestling matches and exhibitions as are authorized by and held under the regulation, supervision and control of the Alabama Boxing and Wrestling Commission, herein established, and relating to the powers, duties, compensation and authority of said Commission, and prescribing penalties for the violation of the provisions of this Act, or rules, regulations and orders of said Commission.

Be it Enacted by the Legislature of Alabama:

Section 1. That boxing, sparring and wrestling matches and exhibitions, for purses, where an admission fee is charged, are hereby expressly prohibited, provided, however, that boxing, sparring and wrestling matches and exhibitions are hereby allowed when the same are authorized by and held under the rules, regulations and control of the Alabama Boxing and Wrestling Commission herein established, but not otherwise.

Section 2. That no boxing, sparring or wrestling matches shall be held on Sundays.

Section 3. That a Boxing and Wrestling Commission is hereby created which shall be known as the Alabama Boxing and Wrestling Commission, and which, for the purpose of brevity, is hereinafter referred to in this Act as the Commission. The Commission shall consist of three men, each of whom shall be a qualified voter and not less than thirty-five years of age. The members of the Commission shall consist of a Chairman of the Commission and two Associate Commissioners, each of whom shall be appointed by the Governor and shall be subject to removal at the pleasure of the Governor, with or without cause. The Chairman shall be appointed for a term of six years, and one Associate Commissioner

for four years, and one Associate Commissioner for two years, and thereafter their respective successors shall be appointed for a term of six years. They shall take the same oath of office and may be impeached and shall be commissioned as other State officers, but they shall not be required to reside in Montgomery County, Alabama.

Section 4. The Commission shall adopt a seal and shall have and hereby is vested with the sole direction, management, control and jurisdiction over all boxing, sparring and wrestling matches or exhibitions to be conducted, held or given within the State of Alabama, and no such boxing, sparring or wrestling match or exhibition shall be conducted, held or given within the State except in accordance with the provisions of this Act. The Commission shall have full power and authority and it shall be its duty: (a) to make and publish rules and regulations governing the conduct of boxing, sparring and wrestling matches and exhibitions, the time and place thereof, and to fix the price charged for admission thereto; to accept applications for and in its sole discretion order a license or permit issued to any person, firm, corporation, club, association, or organization, desiring to promote or conduct a boxing, sparring or wrestling match or exhibition, and to refuse such license or permit or to revoke such license or permit when, in their sole discretion, they may deem such action just or proper, or for the general welfare of the people or for the general welfare of such matches or exhibitions in general; (b) to limit the number of licenses or permits issued to any person, firm, corporation, club, association or organization within any twelve months period; (c) to limit the number of matches or exhibitions that shall be held within any county or city within any twelve months period; (d) to pro-rate the number of such permits that shall be issued to qualified applicants when the number of applications for permits to be held within any one period exceeds the total number of such exhibitions as are authorized by the Commission on such basis as to the Commission, in its sole discretion, may seem just to all applicants; (e) to collect through the recorder of permits and licenses a fee of One Dollar for every permit or license to hold a boxing sparring or wrestling match or exhibition, and seventeen and one-half per centum of the gross receipts of every boxing, sparring or wrestling match or exhibition, and a reasonable fee to be fixed by the Commission, not to exceed Ten Dollars (\$10.00) for each annual license or permit issued to a boxer, wrestler, matchmaker, promoter or manager, and One Dollar (\$1.00) for each annual license or permit issued to referee, judge, ticket seller, announcer, trainer, second, medical examiner, ticket taker, director or time-keeper; (f) to appoint and remove at pleasure, with or without cause, such number of inspectors as, in its sole discretion, is necessary to aid in the

proper discharge of its duties, at least one of whom shall be present at the ringside at all exhibitions, and it shall be the duty of all inspectors to see that all rules and regulations of the Commission and the provisions of this Act are strictly complied with, and the Commission may pay to such inspectors as it designates as compensation for services rendered One and 50/100 (\$.50) Dollars each for each exhibition attended in their official capacity, payment to be made out of the funds of the Commission in the same manner as provided herein for the payment of other expenses; (g) provided, however, that nothing in this Act shall be construed as permitting, authorizing, or enjoining the Commission to collect any license, permit fee or tax for any amateur boxing, sparring or wrestling matches or exhibitions held under the auspices of educational institutions when the proceeds of such are to be used to foster, aid or abet programs of education in the State of Alabama, or when the same are held under the auspices, rules and regulations or any national amateur athletic association or union. But no exemption from license, permit fee, tax or charges will be granted to any person, group of persons, or organization for such amateur boxing, sparring or wrestling matches or exhibitions when the proceeds or any part thereof are for personal or private gain; (h) provided, however, that the Commission shall collect from all patriotic organizations chartered by authority of a special Act of the Congress of the United States, or local unit thereof, which has been in existence and held meetings at regular intervals for one year immediately preceding the issuance of the permit, to whom a license or permit is issued, ten per centum of the gross receipts of every boxing, sparring or wrestling match conducted or sponsored by such organization, in lieu of the seventeen and one-half per centum provided for in sub-section (e) above, in addition to other licenses and fees as are herein provided.

Section 5. Each member of the Commission shall serve as such without salary, but shall receive his actual expenses while engaged in the performance of his duties, and a per diem of Ten (\$10.00) Dollars per day, but not exceeding Six Hundred (\$600.00) Dollars per annum. The Chairman of the Commission shall be ex-officio the Recorder of Permits and Licenses and for his services as such shall receive one-third of all monies collected.

Section 6. The Commission may appoint and remove at pleasure, with or without cause, a secretary to the Commission, who shall perform such duties as the Commission may prescribe, and who shall keep a full and complete record of all the proceedings of said Commission, including all licenses and permits issued by the Recorder of Permits and Licenses, and all sums collected, and make a report thereof to the State Auditor annually on or before the 15th day of January in each year.

Section 7. The Commission shall maintain a general office and such branch offices for the transaction of its business at such place or places as may be designated by the Commission. It may fix the salary of its secretary at a sum not exceeding One Hundred (\$100.00) Dollars per month, and in addition thereto the secretary shall receive his actual expenses while engaged in the performance of his duties.

Section 8. The Recorder of Permits and Licenses shall give a bond in the sum of Five Thousand (\$5000.00) Dollars with a surety company authorized to do business in Alabama, payable to the State of Alabama, conditioned that he will faithfully account for and pay over to the State Treasurer all monies collected by him, less any disbursements or deductions authorized by law, and it shall be his duty to make a report of and pay into the State Treasury on or before the 15th day of January of each year all monies received, after first paying all salaries, accounts and other expenditures authorized by law and approved by the Commission.

Section 9. All contracts relating to the holding or staging of any boxing, sparring or wrestling match or exhibition in the State of Alabama, or relating to any participation therein, shall contain a provision to the effect that all rules passed or adopted by the Commission, either before or after the execution of the contract, shall be considered as a part of the contract, the same as if said rules were fully set out in the body of the instrument.

Section 10. Any person who shall voluntarily engage in a pugilistic encounter between man and man, or wrestling match or exhibition between man and man, or man and beast, for money or any other thing of value, or upon the result of which any money or other thing of value is bet or wagered, or to see which an admission fee is charged, either directly or indirectly, or by membership in clubs or organizations issued for the purpose of circumventing the provisions of this Act, or any person who shall be concerned directly or indirectly in the promotion of any boxing, sparring or wrestling match or exhibition, or any person who shall voluntarily box or wrestle, or voluntarily attempt to box or wrestle, for money or any other thing of value, or in a public place or in a place where an admission fee is charged, either directly or indirectly, or any person who acts or attempts to act as referee, judge, match maker, promoter, manager, trainer, announcer, director, second, medical examiner, ticket seller, ticket taker, or timekeeper, in connection with any boxing, sparring or wrestling match or exhibition in this State without first having obtained a license or permit from the Commission so to do, shall, on conviction, be fined not less than One Hundred (\$100.00) Dollars nor more than Five Hundred (\$500.00) Dollars for each offense.

Section 11. Any person who shall wilfully violate any rule or

regulation passed or adopted by the Commission relating to boxing, sparring, or wrestling, shall, on conviction, be fined not less than One Hundred (\$100.00) Dollars nor more than Five Hundred (\$500.00) Dollars for each offense.

Section 12. All licenses and permits issued by the Commission shall be on a form prescribed by the Commission, which shall be furnished to the Commission on its order at the expense of the State. All stamps, books, stationery, supplies, rents, salaries, fees, clerical hire, and all other expenses necessary to the performance of the duties herein prescribed shall be paid for on order of the Commission, by the Recorder of Permits and Licenses, out of funds on hand, for which he is accountable to the State Treasurer.

Section 13. No contestant shall be paid for services before a contest, and should it be determined by any Commissioner, or in the absence of a Commissioner, by the inspector on duty at the ring, that such contestant did not give an honest exhibition of his skill, or did not honestly compete, any Commissioner, present, or, in the absence of a Commissioner, the inspector on duty at the ring, may suspend such contestant for a period not exceeding ninety days, or may forfeit all or any part of such contestant's pay, or both.

Section 14. No boxing or sparring match or exhibition shall be more than twenty rounds in length, such rounds to be not more than three minutes, and there shall be one minute rests between each round, and all decisions shall be by the majority vote of the referee and two judges appointed by the Commission under such rules and regulations as the Commission may prescribe.

Section 15. No Court in this State shall issue an injunction restraining the Commissioner, the solicitor or the Sheriff of the county in which any match or exhibition is held or proposed to be held from enforcing the provisions of this Act or the rules and regulations of the Commissioner adopted under the provisions of this Act.

Section 16. The Circuit Solicitors, in their respective Circuits, are hereby charged with the duty of prosecuting any violation of any provision of this Act.

Section 17. The Sheriffs, in their respective counties, are hereby charged with the duty of suppressing and preventing the commission of any offense under this Act and enforcing the rules, regulations and orders of the Commission, and to that end they may employ all the power and authority vested in them by law as conservators of the peace. Any Sheriff who fails or refuses to enforce any written order of the Commission, a copy of which shall be served upon the sheriff, or his chief deputy, shall, on conviction, be fined not less than One Hundred (\$100.00) Dollars nor more than Five Hundred (\$500.00) Dollars for each such refusal or failure.

Section 18. Any person, firm, corporation, association, club or organization, feeling itself aggrieved by any act or ruling of any Commissioner or any inspector, may file a written protest to the Secretary of the Commission within fifteen days from the commission of said act complained of and the Commission shall give said complainant an opportunity to be heard, and after a hearing the Commission shall make such order as to it shall seem equitable, fair and just, and any person feeling aggrieved by the order of said Commission after said hearing shall have the right to appeal within thirty days from the date of said order from the ruling of said Commission to the Circuit Court of Montgomery County in equity, but no action will be against any Commissioner in his representative capacity, and all suits by the Commission shall be brought in the name of the Alabama Boxing and Wrestling Commission, and all suits and actions against the Commission shall be in the name of the Alabama Boxing and Wrestling Commission and shall be brought only in the Circuit Court of Montgomery County in equity. Boxing, Sparring and Wrestling Matches and Exhibitions, held in the armory of any National Guard or Naval Militia Unit, under the supervision of the Senior Officer at the station at which the said Armory is situated are expressly exempted from the provisions of this Act. At said Matches or Exhibitions in any of said armories, an admission charge or fee of not exceeding forty-five cents may be required of each person so attending, which said admission fees, after payment of reasonable costs of said Exhibition or Matches, shall be covered into the Company fund. Provided further; That the units of the National Guard or Naval Militia shall not be required to obtain any authority, permission or license from the Commission created by this Act or from any agency to conduct or hold any such Exhibition or Matches, and that all such Exhibitions and Matches so held under the authority of this Section shall be exempt from the payment of any and every form of license, or taxation, either State, County or Municipal. It shall be the duty of the Adjutant General to promulgate and enforce rules and regulations governing such Exhibitions and Matches.

Section 18-A. Boxing, Sparring and Wrestling Matches and Exhibitions, held in the armory of any National Guard or Naval Militia Unit, under the supervision of the Senior Officer at the station at which the said armory is situated are expressly exempted from the provisions of this Act. At said Matches or Exhibitions in any of said armories, an admission charge or fee of not exceeding forty-five cents may be required of each person so attending, which said admission fees, after payment of reasonable costs of said Exhibitions or Matches, shall be covered into the Company fund. Provided further; That the units of the National Guard or Naval Militia shall not be required to obtain any authority, permission or

license from the Commission created by this Act or from any agency to conduct or hold any such Exhibitions or Matches, and that all such Exhibitions and Matches so held under the authority of this Section shall be exempt from the payment of any and every form of license or taxation, either State, County or Municipal. It shall be the duty of the Adjutant General to promulgate and enforce rules and regulations governing such Exhibitions and Matches.

Section 19. All laws and parts of laws in conflict herewith, either special or general, except as herein otherwise specially provided, are hereby repealed, provided that nothing herein shall relieve any person, firm, association, club or corporation from the payment of the tax provided by, or the provisions of an Act of the Legislature, approved February 8th 1939, known as the Sales Tax Act.

Section 20. If any section, clause, provision or portion of this Act shall be held to be invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect any other section, clause or provision of this Act which is not in and of itself unconstitutional. It is hereby declared to be the intention of the Legislature that if any portion of this Act shall be declared to be unconstitutional, the remainder shall be in full force and effect and that the Legislature would have passed this Act without such invalid portion or provision.

Section 21. This Act shall take effect upon its approval by the Governor.

Approved September 22, 1939.

No. 490)

(S. 318—Stakely

AN ACT

To provide for the time of payment of the salaries of all officers and employees of the State of Alabama.

Be it Enacted by the Legislature of Alabama:

Section 1. That from and after the passage of this Act, the salaries of all officers and employees of the State of Alabama are payable on the fifteenth day and last day of each month; but any unpaid salaries may be paid upon the expiration of the term or employment of the officer or employee.

Section 2. That all laws and parts of laws, general, special or local, in conflict with the provisions of this Act are hereby expressly repealed.

Section 3. That this Act shall become effective immediately upon its passage and approval by the Governor or its otherwise becoming a law.

Approved September 16, 1939.

AN ACT

An Act To Amend an Act entitled "An Act to authorize, provide for and regulate non-profit corporations for the establishment, maintenance and furnishing of a plan of hospitalization and hospital service," Approved September 14, 1935, as amended by an Act entitled "An Act to amend Sections 5 and 12 of an Act approved September 14, 1935 entitled 'An Act to authorize, provide for and regulate non-profit corporations for the establishment, maintenance and furnishing of a plan of hospitalization and hospital service'" Approved April 21, 1936, by adding thereto a new section to be numbered "Section 12-1/2" making the provisions of Sections 8319 to 8554 (31), inclusive, of the Code of Alabama of 1923 and any amendments thereto and any other statutes of this State applying to insurance companies inapplicable to any corporation organized under the provisions of said Act as amended, or to any contract made by such corporation, and to amend Sections 4, 11 and 12 of said Act as amended.

Be it Enacted by the Legislature of Alabama:

Section 1. That an Act entitled "An Act to authorize, provide for and regulate non-profit corporations for the establishment, maintenance and furnishing of a plan of hospitalization and hospital service," approved September 14, 1935, as amended by an Act entitled "An Act to amend Sections 5 and 12 of an Act approved September 14, 1935, entitled, 'An Act to authorize, provide for and regulate non-profit corporations for the establishment, maintenance and furnishing of a plan of hospitalization and hospital service,'" approved April 21, 1936, be and is hereby amended by adding thereto a new section to be numbered "Section 12½", reading as follows: Section 12½. None of the provisions of Sections 8319 to 8554 (31), inclusive, of the Code of Alabama of 1923, nor any amendments thereto, nor any other statute of this State applying to insurance companies shall be applicable to any corporation organized under the provisions of this Act and amendments thereto or to any contract made by such corporation unless herein expressly mentioned and made applicable.

Section 2. That Sections 4, 11 and 12 of said Act as amended be and they are hereby amended so that said sections shall respectively read as follows: Section 4. Any hospital doing business in the State of Alabama shall have the right to participate as a member of said corporation provided such hospital shall have been approved in writing as a proper hospital to render the service herein provided by the trustees of the Alabama Hospital Association and the State Board of Censors of the Medical Association of the State of Alabama, provided further however, that the Board of Trustees of said Corporation may terminate such membership for any cause deemed proper by it, by a majority vote. Such member may be reinstated by a majority vote of the Board of Trustees.

Section 11. On or before the 1st day of March of each year, every such company transacting business in this State shall file with the Superintendent of Insurance a statement showing the amount of gross dues received by it for business done in this State during the preceding calendar year ending December 31st, and the number of contracts or certificates outstanding. No license, privilege, or other tax shall be charged any corporation organized hereunder by or on behalf of any city or municipality of this State, and no license, privilege or other tax in excess of the amount paid to the State under the provisions of this Act shall be charged any such corporation by or on behalf of any county of this State. Section 12. The corporation shall, annually, on or before the first day of March, file in the office of the Superintendent of Insurance a statement verified by at least two of the principal officers of said corporation showing its conditions on the thirty-first day of December then next preceding, which shall be in the form and shall contain such matters as the Superintendent of Insurance shall prescribe. Every such corporation shall set up as the liability for unperformed contracts or unearned dues on all outstanding certificates ninety-five (95%) per cent of the unearned net dues or charges collected on such contracts computed on a monthly basis (by net dues is meant the amount received by the corporation less acquisition costs.) Every such corporation shall at all times hold assets equal to such aggregate amount so computed over and above all other liabilities, but the Insurance Commissioner shall allow to the credit of every such company in the account of its financial condition all such assets as are or can be made available for the payment of claims or losses in Alabama.

Section 3. This Act shall take effect immediately upon becoming law.

Approved September 16, 1939.

No. 492)

(S. 347—Holmes

AN ACT

To provide for the protection of the forest resources and woodlands of Alabama from fires by preventing the wilful and malicious burning of woodlands; to require the suppression of fires and to provide a punishment for the wilful, malicious, or wantonly negligent setting of fire to woods, brush, prairie, grass, grain or stubble, in this state.

Be it Enacted by the Legislature of Alabama:

Section 1. Every person, firm, association or corporation, who wilfully, maliciously or with wanton negligence sets on fire or causes or procures to be set on fire any woods, brush, prairie, grass, grain, stubble or other inflammable vegetation on any lands not

owned leased or controlled by him or them; and every person, firm, association, or corporation, who wilfully, maliciously, or with wanton negligence allows a fire to escape from land owned, leased or controlled by him or them whereby any property of another is injured or destroyed, and any person, firm, association, or corporation, who shall burn any brush, stumps, logs, rubbish, fallen timber, grass, stubble or debris of any sort, whether on one's own land or that of another without taking reasonably necessary precautions, both before lighting the fire and at all times thereafter to prevent the escape thereof; and any person, firm, association or corporation, who shall set fire to any brush, stumps, logs, rubbish, fallen timber, grass, stubble or debris of any sort, within or near any forest or woodland, unless the area surrounding said material to be burned shall be cleared of all inflammable material for a reasonably safe distance in all directions, and maintained free of all inflammable material so long as such fire shall continue to burn; and any person, firm, association or corporation, who shall set a fire within or near any forest, woodland or grass land without clearing the ground immediately around it free from material which will carry fire, or leave such fire before it is totally extinguished, or start a fire in any forest, woodland or grass land by throwing away a lighted cigar, cigarette, match, or by the use of firearms, or in any other manner, and leave the same unextinguished; and any person, firm, association or corporation who shall set, throw, or place any device, instrument or paraphernalia in or adjacent to any forest, woodland, or grass land with intent to set fire to said forest, woodland, or grass land, which in the natural course of events would result in fire being set to said forest, woodland or grass land; and any person, firm or corporation, who shall destroy, remove, injure or deface any fire warning or notices, or deface any inscription or devices comprising such notices; and any person, firm, association or corporation, who shall burn any new ground, field, grass lands or woodlands, adjoining woodlands or grass lands of another within any area which has been placed under organized forest fire protection by the Department of Conservation, or any other agency without first reporting to the protection agency the time he intends to burn said land and location of the same; shall be guilty of a misdemeanor and shall be punished by a fine of not less than \$10.00 nor more than \$1,000, and may also be imprisoned in the county jail or sentenced to hard labor for not less than ten (10) days nor more than twelve (12) months.

Section 2. Any fire burning uncontrolled on any forested, cut-over, brush land or grass land area is hereby declared to be a public nuisance by reason of its menace to life and property. Any person, firm, association, or corporation responsible either for the starting or the existence of such fire is hereby required to make a reasonable effort to control or extinguish it as soon as he or they

has or have knowledge thereof, and if such person, firm, association, or corporation shall refuse or neglect to do so, any organized fire suppression force may suppress the nuisance thus constituted, by controlling and extinguishing the fire, and the cost thereof may be recovered from said person, firm, association, or corporation responsible for the starting or existence of such fire.

Section 3. All employees of the Department of Conservation shall have the powers of peace officers in the enforcement of the fire and forest laws of the State of Alabama. All employees of the Department of Conservation, and all duly appointed officers of the United States whose duty it is to prevent and suppress forest fires shall be empowered to enter any lands and to construct thereon fire lines, fire lanes or fire-breaks to set backfires thereon if necessary to prevent the further spread of fire then actually burning, and to do other work necessary in the performance of their duties without liability for trespass or damage therefrom.

Section 4. If any provision or part of this Act shall be held unconstitutional, invalid or for any reason ineffective, it shall not affect or invalidate any of the remaining provisions of this Act.

Section 5. All laws and parts of laws, whether general, local or special, in conflict with any of the provisions of this Act are hereby expressly repealed.

Section 6. This Act shall become effective immediately upon its approval by the Governor.

Approved September 22, 1939.

No. 493)

(S. 433—Lusk

AN ACT

To amend Sections 5, 7 and 8 of an Act approved March 2, 1937, entitled "An Act to provide for and authorize the incorporation of a Water Works Board for the several cities and incorporated towns of Alabama; to provide for the powers and duties of such Water Works Board; to authorize such board, subject to the limitations herein stated, to purchase or construct a water works system, water supply systems, and all necessary equipment and appliances incident thereto; to authorize such city or incorporated town to purchase from said Water Works Board a sufficient supply of water necessary to supply the inhabitants of such city or incorporated town and surrounding territory; to authorize such board to borrow money and to issue revenue bonds to secure the same, payable solely from the revenues derived from the operation of such system or systems; to regulate the issuance, sale, and refunding of such bonds and of other matters in connection therewith; to regulate the use of revenues of such system or systems when such bonds are issued or authorized; to confer on such board the right of eminent domain."

Be it Enacted by the Legislature of Alabama:

Section 1. That Section 5 of said Act approved March 2, 1937, be and the same is hereby amended so as to read as follows: "Sec-

tion 5. Each corporation formed under this Act shall have the following powers together with all powers incidental thereto: (1) To have succession by its corporate name perpetually or until dissolved as hereinafter provided. (2) To sue and be sued and defend suits instituted against it. (3) To make use of a corporate seal and to alter the same at pleasure. (4) To receive, acquire, take and hold, whether by purchase, sale, gift, lease, devise or otherwise, all such real, personal and mixed property of any nature whatsoever as it may deem necessary or convenient for the purchase, construction, operation, maintenance, enlargement, extension and improvement of a water works plant and water works system, whether or not the same shall be in existence and whether or not the same shall be publicly or privately owned, and to operate, maintain, enlarge, extend, and improve the same and to do all acts necessary to that end. (5) To borrow money and to issue revenue bonds as evidences of any money so borrowed, which bonds shall be payable solely from the revenues derived from the operation of such water works plant and system. (6) As security for any money so borrowed, together with interest thereon and any obligations incurred or assumed, to mortgage, pledge or otherwise transfer and convey its real, personal and mixed property, or any part or parts thereof, whether then owned or thereafter acquired, including its franchises owned and thereafter acquired and all or any part of the revenues derived from such plant or system or any part thereof. The instrument whereunder such mortgage or pledge shall be made may contain such agreements as the Board of Directors of such corporation shall deem advisable respecting the operation and maintenance of such property and respecting the rights and duties of the parties to such instrument or for the benefit of whom such instrument is made; provided, that no such mortgage or pledge shall be construed so as to permit the foreclosure thereof. (7) To lease, exchange, sell and convey any or all of its real, personal or mixed property by any form of legal conveyance or transfer. (8) To contract for the sale of and to sell its water supply or any part thereof to any person, firm or corporation, and to any such city or town for distribution to the inhabitants thereof and the surrounding territory. (9) To exercise all powers of eminent domain now or hereafter conferred on municipalities in this state. (10) To appoint and employ such officers and agents, including attorneys, as the Board of Directors shall deem necessary for the business of the corporation."

Section 2. That Section 7 of said Act approved March 2, 1937, be and the same is hereby amended so as to read as follows: "Section 7. Any such corporation which borrows money under the authority of this Act may evidence the loan by revenue bonds in such form and of such tenor and maturities as may be agreed

upon between the lender and the corporation. Any such bonds so issued may thereafter from time to time be refunded by the issuance by sale or exchange of refunding bonds at such times and in such form and of such tenor and maturities as may be agreed on by the corporation and the holders of the bonds so refunded if such refunding is by exchange, and as may be determined by the corporation if such refunding is by sale of refunding bonds. Such corporation may restrict the source of payment of such bonds and the security given therefor to whatever extent the Board of Directors thereof shall deem advisable, but no such bonds shall purport to be effective to impose on the corporation, or its funds or property, any liability in excess of or inconsistent with the liability authorized to be incurred or assumed by this Act. Such borrowing may be evidenced by sale of such bonds either at private or public sale in such manner and from time to time as may be determined by the Board of Directors of such corporation to be most advantageous, and the corporation may pay all expenses, premiums and commissions which its Board of Directors may deem necessary and advantageous in connection with any such financing. All such bonds shall be regarded as negotiable instruments. All such bonds and all instruments executed as security therefor shall be exempt from all taxation under the laws of the State of Alabama. No such city or town shall in any event be liable for any money so borrowed or any debt created by such corporation, nor shall the same be construed to be an indebtedness of or against such city or town. When any such corporation shall have borrowed money as aforesaid, it shall charge, collect and account for sufficient revenues from the operation of the plant and system to repay the money borrowed with interest thereon as the same shall mature and to pay all operating and maintenance expenses of such plant and system, and each year any income of the corporation in excess of operating and maintenance expenses and the amount required to be applied on any money so borrowed and the interest thereon shall be held or disbursed as may be provided in the proceedings pursuant to which such loan shall have been procured. When the cost of construction of and all indebtedness otherwise incurred against such plant and system shall have been fully paid, then such plant and system, together with all rights of way, pipe lines, improvements and appurtenances thereto, and all other property, whether tangible or intangible, including franchises owned by said corporation, shall thereupon become the property of such city or town and all rights of said corporation in and to the same shall thereupon immediately vest in such city or town, whereupon said corporation shall be automatically dissolved."

Section 3. That Section 8 of said Act approved March 2, 1937, be and the same is hereby amended so as to read as follows:

"Section 8. Neither this Act nor anything herein contained shall be construed as a restriction or limitation upon any power, right or remedy, which any corporation, now in existence, or hereafter formed, may have in an absence thereof, but shall be construed as cumulative and independent of any such power, right or remedy. No proceedings, notice or approval shall be required for the incorporation of such corporation, the acquisition of any property or the making of any loans or issuance of instruments in evidence thereof or as security therefor, except as herein prescribed, any other law to the contrary notwithstanding; provided, however, that nothing herein shall be construed to suspend the jurisdiction of the State Board of Health as may be otherwise provided by law. Any corporation organized under the provisions of this Act shall be exempt from all jurisdiction of and regulation by the Public Service Commission."

Section 4. All laws and parts of laws in conflict herewith are hereby repealed, and this Act shall become effective on its passage and approval by the Governor, or upon its becoming a law without such approval.

Approved September 22, 1939.

No. 494)

(S. 434—Lusk

AN ACT

To authorize each city and incorporated town in Alabama which now or hereafter owns and operates a Municipal Water Works to transfer and convey such water works to the control, management and operation of a water board of such municipality, and to prohibit such water board from selling or transferring such water works so as to vest title into private ownership or control, except as security for money borrowed.

Be it Enacted by the Legislature of Alabama:

Section 1. That each city or incorporated town now or hereafter owning and operating a Municipal Water Works, and in which municipality a water works board is now or hereafter incorporated under the provisions of an Act approved March 2, 1937, entitled: "An Act to provide for and authorize the incorporation of a Water Works Board for the several cities and incorporated towns of Alabama; to provide for the powers and duties of such Water Works Board; to authorize such board, subject to the limitations herein stated, to purchase or construct a water works system, water supply systems, and all necessary equipment and appliances incident thereto; to authorize such city or incorporated town to purchase from said Water Works Board a sufficient supply of water necessary to supply the inhabitants of such city or incorporated town and surrounding territory; to authorize such board to borrow money

and to issue revenue bonds to secure the same, payable solely from the revenues derived from the operation of such system or systems; to regulate the issuance, sale, and refunding of such bonds and of other matters in connection therewith; to regulate the use of revenues of such system or systems when such bonds are issued or authorized; to confer on such board the right of eminent domain," together with any amendments heretofore or hereafter enacted, is hereby authorized to transfer and convey such water works to such water board pursuant to the provisions of an ordinance theretofore duly enacted by the governing body of such city or incorporated town and without the necessity of authorization at an election of the qualified voters thereof, provided that if at the time of such transfer the city or incorporated town has outstanding any bonds or other obligations payable from or secured by the revenues or earnings of such water works, it shall be incumbent upon the water board of such city or incorporated town to pay the amount thereof to such city or town at the time of such transfer, or thereafter, as such bonds or other obligations and interest thereon become due. The governing authority of such city or incorporated town is hereby authorized to enter into any agreements with such water board deemed necessary in order to effectuate such transfer, and in the instruments of transfer may impose any conditions or stipulations deemed advisable for the subsequent control, management, operation, extension and improvement of the water works by the water board. Nothing herein shall be construed to authorize any water board to which a municipal water works is transferred to thereafter sell or transfer such water works so as to vest title thereto into private ownership and control, except that title thereto may be subjected to a mortgage or deed of trust as security for repayment of any loan made or money borrowed by such water board.

Section 2. That all laws and parts of laws in conflict herewith are hereby repealed and this Act shall become effective on its passage and approval by the Governor or upon its becoming a law without such approval.

Approved September 21, 1939.

No. 495)

AN ACT

(S. 435—Lusk

To amend Subsection 21 of Section 5 of the "Department of Finance Act of 1939," approved March 7, 1939.

Be it Enacted by the Legislature of Alabama:

Section 1. That subsection 21 of Section 5 of the "Department of Finance Act of 1939", approved March 7, 1939, be and the same

is hereby amended to read as follows: Subsection 21. In the event of default for ninety days or more in the payment of the principal or interest on any general obligation, special assessment, revenue or other bond of any county, municipal corporation, political subdivision or local public body (except Boards of Education), which default is not due to a bona fide dispute as to the validity or amount of such principal or interest or with respect to the payment of which no agreement shall have been made with the holder thereof, the Department of Finance may, if requested so to do by a petition in writing to the Director of Finance or the Chief of the Division of Local Finance by the holder or holders of any bond or bonds so in default, take charge of the revenues, monies and income of such county, municipal corporation, political subdivision or local public body to the extent to which such revenues, monies or income are exclusively applicable to the payment of such principal or interest or to the payment of the principal or interest, or both, of the issue of bonds to which such defaulted bond or bonds belong, and to supervise and control the expenditure thereof until such default shall have been cured or until a plan for the orderly liquidation of such obligation of such county, municipal corporation, political subdivision or local public body shall have been formulated and accepted by the governing body thereof and the holders of three-fourths in amount or face value of outstanding bonds with respect to which any such default exists or is impending. The petition shall disclose all facts and circumstances available in connection with the issue in default, including the names and addresses of all known holders of such issue. Immediately upon the filing of the petition, the Director of Finance or the Chief of the Division of Local Finance shall set the matter down for a public hearing on a day after the expiration of ten days from the date of filing thereof. Said public hearing shall be held only after notice has been given to such defaulting county, municipal corporation, political subdivision or local public body and all known holders of the issue of bonds so in default. At the public hearing held pursuant to such notice, the Director of Finance or the Chief of the Division of Local Finance may take such testimony as may be offered, or as he may desire, and may make such other further investigation as in his opinion is desirable. The Director of Finance or the Chief of the Division of Local Finance shall have the power to issue subpoenas for witnesses and compel their attendance and the production of records, papers and writings, and may administer oaths and examine witnesses under oath. Should it be determined by the Director of Finance or the Chief of the Division of Local Finance after said public hearing has been held that it is in the public interest that the Director of Finance or the Chief of the Division of Local Finance should exer-

cise the power conferred upon him pursuant to this Act, the Director of Finance or the Chief of the Division of Local Finance shall enter an order to that effect. Notice of the action taken by the Director of Finance or the Chief of the Division of Local Finance on such petition shall be given the parties in interest by letter mailed to the last known addresses of such parties. Such order in the absence of an appeal therefrom as hereinafter provided for shall become final on the tenth day next succeeding the date notification of the entry thereof shall have been mailed as herein provided. Whenever a plan of readjustment and/or refinancing the bond or bonds so in default is formulated by the Director of Finance or the Chief of the Division of Local Finance, and submitted to the defaulting county, municipal corporation, political subdivision or local public body, the governing body of such county, municipal corporation, political subdivision or local public body may adopt same and pass the necessary orders or ordinances for the purpose of carrying said plan into effect. The Director of Finance is hereby authorized to appoint or designate an agent or custodian to take charge of the revenues, monies and income of such county, municipal corporation, political subdivision or local public body for the purpose of effectuating the above plan at the direction of the Director of Finance or the Chief of the Division of Local Finance. Such agent or custodian shall serve at the pleasure of the Director of Finance. Said agent or custodian shall receive such compensation as shall be agreed upon by the Director of Finance and the governing body of the defaulting county, municipal corporation, political subdivision or local public body. In the event no agreement can be reached between the Director of Finance and the governing body of the defaulting county, municipal corporation, political subdivision or local public body, as to the amount of compensation such agent or custodian shall receive, the matter shall be referred to the Judge of the Circuit Court of Montgomery County, who shall determine said compensation at his discretion. The amount of such compensation so fixed shall be final and binding upon all parties. Before entering upon the discharge of his duties, such agent or custodian shall be required to make bond payable to such county, municipal corporation, political subdivision or local public body in an amount to be fixed by the Director of Finance. The compensation of and premium on the bond of such agent or custodian shall be a charge against the county, municipal corporation, political subdivision or local public body, and shall be paid by it. Within ten days after the order of the Director of Finance or the Chief of the Division of Local Finance has become final as herein provided, any party to the proceeding who claims to be aggrieved by the order may secure a judicial review thereof by filing a notice of appeal in the

Circuit Court of Montgomery County in Equity. It shall not be necessary in any proceeding, under this paragraph, to enter exceptions to the rulings of the Director of Finance or the Chief of the Division of Local Finance, and no bond shall be required before entering such appeal. Such appeals shall be heard by said Court at the earliest possible date and shall be given precedence over all cases except other preferred cases. In such action, the notice of appeal need not be verified, but shall state the grounds upon which a review is sought. A copy shall be served upon the Director of Finance or the Chief of the Division of Local Finance, and such service shall be deemed completed service on all parties, but there shall be left with the party so served as many copies of the notice of appeal as there are defendants, and the Director of Finance or the Chief of the Division of Local Finance shall therewith mail one copy to each defendant. The Director of Finance or the Chief of the Division of Local Finance shall cause to be certified and filed in the said court any available record of testimony, all documents and papers introduced in evidence at the public hearing, together with the order of the Director of Finance or the Chief of the Division of Local Finance. The order of the Director of Finance or the Chief of the Division of Local Finance shall not be considered presumptively correct on such appeal, but the same shall be tried de novo. An appeal may be taken from the decision of said court in the same manner as is provided in other equity cases, except that such appeal must be taken within thirty days after the final ruling of said Court. Upon the final determination of such judicial proceeding, the Director of Finance or the Chief of the Division of Local Finance shall enter an order in accordance with such determination. Provided however, that nothing in this subsection shall apply to any municipal corporation now retiring its indebtedness under a schedule ordered or authorized by any District Court of the United States during the term of the bond retirement schedule authorized, nor shall anything in this subsection apply to any bond or other evidence of indebtedness issued by any municipal corporation to obtain a loan or loans from any agency of the United States of America.

Section 2. That this Act shall become effective immediately upon its passage and approval by the Governor or its otherwise becoming a law.

Approved September 22, 1939.

No. 496)

(S. 439—Young.

An ACT

To amend Sections 423 and 424 of the Alabama School Code of 1927.

Be it Enacted by the Legislature of Alabama:

Section 1. That Section 423 of the Alabama School Code of 1927 be so amended as to read as follows: Section 423. AUTHORITY TO COOPERATE WITH FEDERAL GOVERNMENT.—The State Board of Education and County and City Boards of Education are hereby authorized to cooperate with the Federal Government in making effective any law enacted or that may be enacted by Congress for the removal of illiteracy and for maintaining adult education programs and classes in Alabama and in the counties and cities thereof.

Section 2. That Section 424 of the Alabama School Code of 1927 be so amended as to read as follows: Section 424. LEGISLATIVE APPROPRIATION FOR ILLITERACY AND ADULT EDUCATION PROGRAMS AND CLASSES.—That the State Board of Education is hereby authorized to expend the State Illiteracy Fund appropriated for the removal of illiteracy and for otherwise maintaining adult education programs and classes, provided, however, that the State Board of Education is authorized to provide from said fund the necessary professional and clerical assistants to carry on said program.

Section 3. That the provisions of this act shall be effective upon the approval of the Governor or its otherwise becoming a law.

Section 4. That all laws and parts of laws in conflict with the provisions of this act are hereby repealed.

Approved September 21, 1939.

No. 497)

(S. 440—Simpson

AN ACT

To amend Sections 2, 3, 4, 5, 6, 7, 8, 9, 10, 12, 13, 14, 15, 16, 17, 18, 19, and 20 of an Act entitled "an Act to create a system of unemployment compensation; to provide for an unemployment compensation fund; to provide for contributions to such fund; to provide for benefit payments from such fund; to provide eligibility conditions for such benefits; to provide for the settlement of benefit claims; to provide for judicial review of disputed benefit claims; to create an Unemployment Compensation Commission and to provide for its appointment, compensation and prescribe its powers and duties; to provide for the appointment and compensation of other employees and the maintenance and other expenses of such Commission; to accept the benefit of an Act of Congress, approved June 6, 1933, entitled 'An Act to provide for the establishment of a national Employment System and for cooperation with the states in

the promotion of such system and for other purposes'; to provide for the creation of an Alabama State Employment Service and to prescribe its powers, duties and functions; to authorize reciprocal benefit arrangements with other states or the Federal Government; to prohibit the waiver of rights and benefits arising hereunder; to limit attorney's fees in cases arising under this Act; to regulate alienation of benefits; to provide penalties for failure to comply with or violations of this Act; to establish an Unemployment Administration Fund; to appropriate funds to maintain the same; and to retain the right to amend or repeal this Act," approved September 14, 1935 as last amended.

Be it Enacted by the Legislature of Alabama:

Section 1. That Section 2 of the Act, the title of which appears in the caption hereof, be amended to read as follows: Section 2. DEFINITIONS. The following words and phrases, as used in this Act, shall have the following meanings unless the context clearly requires otherwise: (a) "Benefits" means the money payable to an individual with respect to his unemployment as provided in this Act. (b) "Director" means the Director of Industrial Relations appointed by the Governor under authority of the Industrial Relations Act of 1939, or his authorized representatives. (c) "Contributions" means the money payments to the State Unemployment Compensation Fund required by this Act. (d) "Employing unit" means any individual or type of organization, including any partnership, association, trust estate, joint stock company, or corporation, whether domestic or foreign, or the receiver, trustee in bankruptcy, trustee or successor thereof, or the legal representative of a deceased person, which has or subsequent to January 1, 1935, had in its employ one or more individuals performing services for it within this state. All individuals performing services within this state for any employing unit which maintains two or more separate establishments within this state shall be deemed to be employed by a single employing unit for all the purposes of this Act. (e) "Employee" means any individual employed by an employer subject to this Act and in employment subject to this Act in which employment the relationship of master and servant exists between the employee and the person employing him. (f) "Employer" means: (1) Any employing unit which on each of some twenty days during the current or preceding calendar year, each day being in a different calendar week, employed in employment for some portion of the day (whether or not at the same moment of time) eight or more employees, provided, that such employment in a calendar year shall make a newly subject employer subject for all purposes as of January 1st of the calendar year in which such employment occurs. (2) Any employing unit which, having become an employer under this Act, has not under Section 9 of this Act, ceased to be an employer subject to this Act; or (3) For the effective period of its election pursuant to Section 9 (b) hereof any other employing unit which has elected

to become fully subject to this Act. (4) Effective January 1, 1940, any employing unit which is or becomes an "employer" under the provisions of Section 1607 of the Federal Internal Revenue Code, as heretofore amended (formerly Section 907 of the Social Security Act). (5) Any employing unit which acquires the organization, trade or business, or substantially all the assets thereof, of another which at the time of such acquisition was an employer subject to this Act. (6) Any employing unit which acquires the organization, trade or business, or substantially all the assets thereof, of another employing unit (not an employer subject to this Act) and which, if the employment record of such employing unit subsequent to such acquisition, together with the employment record of the acquired unit prior to such acquisition, both within the same calendar year, would be sufficient to constitute an employing unit an employer subject to this Act under paragraph one of this subsection. (g) "Employment":—(I) Subject to the other provisions of this subsection means service, including service in interstate commerce, performed for remuneration or under any contract of hire, written or oral, express or implied, by an employee for the employer employing him. (II) Subject to the other provisions of this subsection, the term "employment" shall include an employee's entire service, performed within or both within and without this state if—(i) The service is localized in this state; or (ii) The service is not localized in any state but some of the service is performed in this state and (i) the base of operations, or, if there is no base of operations, then the place from which such service is directed or controlled, is in this state; or (ii) the base of operations or place from which such service is directed or controlled is not in any state in which some part of the service is performed but the employee's residence is in this state. (iii) Service shall be deemed to be localized within a state if the service is performed entirely within such state; or the service is performed both within and without such state, but the service performed without such state is incidental to the employee's service within the state, for example, is temporary or transitory in nature or consists of isolated transactions. (III) Services not covered under paragraph (II) of this subsection and performed entirely without this state, with respect to no part of which contributions are required and paid under an unemployment compensation law of any other state or of the Federal Government, shall be deemed to be employment subject to this Act if the employee performing such services is a resident of this state and the Director approves the election of the employing unit for whom such services are performed that the entire service of such employee shall be deemed to be employment subject to this Act. (IV) The term "employment" shall not include—(1) Agricultural labor. The term "agricultural labor" includes all services performed—(i) On a farm,

in the employ of any employing unit, in connection with cultivating the soil, or in connection with raising or harvesting any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training, and management of livestock, bees, poultry, and fur-bearing animals and wildlife. (ii) In the employ of the owner or tenant or other operator of a farm, in connection with the operation, management, conservation, improvement, or maintenance of such farm and its tools and equipment, or in salvaging timber or clearing land of brush and other debris left by a hurricane, if the major part of such service is performed on a farm. (iii) In connection with the production or harvesting of naval stores products, or any commodity defined as an agricultural commodity in section 15 (g) of the Federal Agricultural Marketing Act, as amended, or in connection with the raising or harvesting of mushrooms, or in connection with the hatching of poultry, or in connection with the ginning of cotton, or in connection with the operation or maintenance of ditches, canals, reservoirs, or waterways used exclusively for supplying and storing water for farming purposes. (iiii) In handling, planting, drying, packing, packaging, processing, freezing, grading, storing, or delivering to storage or to market or to a carrier for transportation to market, any agricultural or horticultural commodity; but only if such service is performed as an incident to ordinary farming operations or, in the case of fruits and vegetables, as an incident to the preparation of such fruits or vegetables for market. The provisions of this paragraph shall not be deemed to be applicable with respect to service performed in connection with commercial canning or commercial freezing or in connection with agricultural or horticultural commodity after its delivery to a terminal market for distribution for consumption. As used in this subsection the term "farm" includes stock, dairy, poultry, fruit, fur-bearing animal, and truck farms, plantations, ranches, nurseries, rangers, greenhouses or other similar structures used primarily for the raising of agricultural or horticultural commodities, and orchards. (2) Domestic service in a private home, local college club, or local chapter of a college fraternity or sorority. (3) Casual labor not in the usual course of the employer's trade or business. (4) Service performed as a bar pilot, officer or a member of the crew of a vessel on the navigable waters of the United States. (5) Service performed by an individual in the employ of his son, daughter, or spouse, and service performed by a child under the age of twenty-one in the employ of his father or mother. (6) Service performed in the employ of the United States Government or of an instrumentality wholly owned by the United States; except that if the Congress of the United States shall permit states to require any instrumentalities of the United States to make payments into an unemployment fund under a state unemployment compensation act, then to the

extent permitted by Congress and from and after the date of which such permission becomes effective all of the provisions of this Act shall be applicable to such instrumentalities and to services performed by employees for such instrumentalities in the same manner, to the same extent, and on the same terms as to all other employers and employing units, provided, however, if this state should not be certified by the Social Security Board under Section 903 of the Social Security Act for any year, then the payment required of such instrumentality with respect to such year shall be deemed to have been erroneously collected within the meaning of Section 4 of this Act and shall be refunded by the Director from the fund in accordance with the provisions of Section 14 of this Act. (7) Service performed in the employ of a State, or any political subdivision thereof, or any instrumentality of any one or more of the foregoing which is wholly owned by one or more States or political subdivisions; and any service performed in the employ of any instrumentality of one or more States or political subdivisions to the extent that the instrumentality is, with respect to such service, immune under the Constitution of the United States from the tax imposed by Section 1600 of the Federal Internal Revenue Code—(8) Service performed in the employ of a corporation, community chest, fund or foundation, organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, and no substantial part of the activities of which is carrying on propaganda, or otherwise attempting to influence legislation. (9) Service performed after June 30, 1939, in the employ of an "employer" as defined by the Railroad Unemployment Insurance Act, or, as an "employee representative" as defined by the Railroad Unemployment Insurance Act (52 Stat. 1094) and service with respect to which unemployment compensation is payable under any other unemployment compensation system established by an Act of Congress; provided, that the Director is hereby authorized and directed to enter into agreements with the proper agencies under such Act or Acts of Congress, which agreements shall become effective ten days after publication thereof in the manner provided in Section 10 hereof for general rules, to provide reciprocal treatment to individuals who have, after acquiring potential rights to benefits under this Act acquired rights to unemployment compensation under such Act or Acts of Congress, or who have, after acquiring potential rights to unemployment compensation under such Act or Acts of Congress, acquired rights to benefits under this Act. (10) (A) Service performed in any calendar quarter in the employ of any organization exempt from income tax under section 101 of the Federal Internal Revenue Code, if—(i) the re-

muneration for such service does not exceed \$45, or (ii) such service is in connection with the collection of dues or premiums for a fraternal beneficiary society, order, or association, and is performed away from the home office, or is ritualistic service in connection with any such society, order, or association, or (iii) such service is performed by a student who is enrolled and is regularly attending classes at a school, college or university; (B) Service performed in the employ of an agricultural or horticultural organization exempt from income tax under section 101 (1) of the Federal Internal Revenue Code; (C) Service performed in the employ of a voluntary employees' beneficiary association providing for the payment of life, sick, accident, or other benefits to the members of such association or their dependents, if (i) no part of its net earnings inures (other than through such payments) to the benefit of any private shareholder or individual, and (ii) 85 per centum or more of the income consists of amounts collected from members for the sole purpose of making such payments and meeting expenses; (D) Service performed in the employ of a voluntary employees' beneficiary association providing for the payment of life, sick, accident, or other benefits to the members of such association or their dependents or their designated beneficiaries, if (i) admission to membership in such association is limited to individuals who are officers or employees of the United States Government, and (ii) no part of the net earnings of such association inures (other than through such payments) to the benefit of any private shareholder or individual; (E) Service performed in any calendar quarter in the employ of a school, college, or university, not exempt from income tax under section 101 of the Federal Revenue Code, if such service is performed by a student who is enrolled and is regularly attending classes at such school, college, or university, and the remuneration for such service does not exceed \$45 (exclusive of room, board, and tuition); (11) Service performed as a student nurse in the employ of a hospital or a nurses' training school by an individual who is enrolled and is regularly attending classes in a nurses' training school chartered or approved pursuant to State law; and service performed as an interne in the employ of a hospital by an individual who has completed a four years' course in a medical school chartered or approved pursuant to State law; (12) Service performed by an individual as an insurance agent or as an insurance solicitor, if all such service performed by such individual is performed for remuneration solely by way of commission; (13) Service performed by an individual under the age of eighteen in the delivery or distribution of newspapers or shopping news, not including delivery or distribution to any point for subsequent delivery or distribution; (14) Any employer, employment or service which is excluded by the express statutory provisions of Section 1607 of the

Federal Internal Revenue Code as heretofore amended (formerly Section 907 of the Social Security Act). (V) INCLUDED AND EXCLUDED SERVICE. If the services performed during one half or more of any pay period by an employee for the employing unit employing him constitute employment, all the services of such employee for such period shall be deemed to be employment; but if the services performed during more than one-half of any such pay period by an employee for the employing unit employing him do not constitute employment, then none of the services of such employee for such period shall be deemed to be employment. As used in this subsection the term "pay period" means a period (of not more than thirty-one consecutive days) for which a payment of remuneration is ordinarily made to the employee by the employing unit employing him. This subsection shall not be applicable with respect to services performed in a pay period by an employee for the employing unit employing him, where any of such service is excepted by paragraph (g) (IV) (9) of this section. (h) "Employment Office" means a free public Employment Office or a branch thereof operated by this State or maintained as a part of a state controlled system of public Employment Offices. (i) "State" includes, in addition to the States of the United States, Alaska, Hawaii, and the District of Columbia. (j) "Fund" means the Unemployment Compensation Fund established by this Act, to which all contributions and from which all benefits required under this Act shall be paid. (k) "Unemployment Administration Fund" means the Unemployment Compensation Administration Fund established by this Act. (l) "Wages" means every form of remuneration paid (or received) for personal services, including the cash value of any remuneration paid in any medium other than cash, provided, however, that after December 31, 1939, (except with respect to subsection (b) and (d) of Section 5 of this Act) the term "wages" shall not include; (1) That part of the remuneration which, after remuneration equal to \$3,000 has been paid to an individual by an employer with respect to employment during any calendar year, is paid to such individual by such employer with respect to employment during such calendar year; (2) The amount of any payment made to, or on behalf of, an employee under a plan or system established by an employer which makes provision for his employees generally or for a class or classes of his employees (including any amount paid by an employer for insurance or annuities, or into a fund, to provide for any such payment), on account of (A) retirement, or (B) sickness or accident disability, or (C) medical and hospitalization expenses in connection with sickness or accident disability, or (D) death, provided the employee (i) has not the option to receive, instead of provision for such death benefit, any part of such payment or, if such death benefit is insured, any part of the premiums (or contribu-

tions to premiums) paid by his employer, and (ii) has not the right, under the provisions of the plan or system or policy of insurance providing for such death benefit, to assign such benefit, or to receive a cash consideration in lieu of such benefit either upon his withdrawal from the plan or system providing for such benefit or upon termination of such plan or system or policy of insurance or of his employment with such employer; (3) The payment by an employer (without deduction from the remuneration of the employee) of the tax imposed upon an employee under Section 4 of this Act; or of the tax imposed by Section 1400 of the Internal Revenue Code as amended, or (4) Dismissal payments which the employer is not legally required to make. (m) "Week" means such period of seven consecutive days, as the Director may by regulation prescribe. The Director may by regulation prescribe that a week shall be deemed to be in, within, or during that benefit year which includes the greater part of such week, or that benefit year within which such week ends. (n) "Base Period" means the first four of the last five completed calendar quarters immediately preceding the first day of an individual's benefit year. (o) "Benefit Year" with respect to any individual means the 52-consecutive week period beginning with the first day of the first week with respect to which the individual first files a valid claim for benefits, and thereafter the 52-consecutive-week period beginning with the first day of the first week with respect to which the individual next files a valid claim for benefits, after the termination of his last preceding benefit year. Any claim made in accordance with Section 7 (a) of this Act shall be deemed to be a "valid claim" for the purposes of this subsection if the individual has earned the wages for insured work required under Section 6 (A) (e) of this Act. (p) "Calendar Quarter" means the period of three consecutive calendar months ending on March 31, June 30, September 30, or December 31, except as the Director shall by regulation otherwise prescribe. (q) "Insured Work" means "employment" for "employers".

Section 2. That Section 3 of the Act, the title of which appears in the caption hereof, be amended to read as follows: Section 3. UNEMPLOYMENT COMPENSATION FUND. (a) Fund. There is hereby created as a special fund, separate and apart from all public moneys or funds of this state, an Unemployment Compensation Fund, which shall be administered by the Director exclusively for the purposes of this Act without liability on the part of the state beyond the amounts paid into and earned by the Fund. This fund shall consist of: (1) All contributions paid in or collected under this Act, together with all interest and penalties earned or collected pursuant to this Act. (2) Interest earned upon any moneys in the fund. (3) Any property or securities acquired through the use of moneys belonging to the Fund; and

(4) All earnings of such property or securities. (b) Treasurer. The Director shall designate as Treasurer of the Fund, a person who shall pay all vouchers or checks duly drawn upon the Fund, in such manner as the Director may prescribe. The Treasurer shall maintain within the Fund three separate accounts; (1) a clearing account, (2) an unemployment trust fund account, and (3) a benefit payment account. All moneys payable to the Fund, upon receipt thereof by the Director, shall be forwarded to the Treasurer who shall immediately deposit them in the clearing account. Refunds payable pursuant to Section 14 of this Act, may be paid from the clearing account upon warrants issued by the Treasurer as aforesaid, under the direction of the Director. After clearance thereof, all other moneys in the Clearing Account shall be deposited by warrants issued as aforesaid with the Secretary of the Treasury of the United States of America to the credit of the account of this State in the Unemployment Trust Fund, established and maintained pursuant to Section 904 of the Social Security Act, any provisions of law in this State relating to the deposit, administration, release, or disbursement of moneys in the possession or custody of this State to the contrary notwithstanding. The Benefit Payment Account shall consist of all moneys requisitioned from this State's account in the Unemployment Trust Fund. Except as herein otherwise provided, moneys in the clearing and benefit accounts may be deposited by the Treasurer, under the direction of the Director, in any bank or public depository in which general funds of the state may be deposited but no public deposit insurance charge or premium shall be paid out of the Fund. The Treasurer shall give bond conditioned upon the faithful performance of his duties as Treasurer of the Fund, in a form prescribed by statute or approved by the Attorney General, and in an amount specified by the Director and approved by the Governor. All premiums upon bonds required pursuant to this section, when furnished by an authorized surety company or by a duly constituted governmental bonding firm shall be paid from the Unemployment Administration Fund. (c) Withdrawals. Money shall be requisitioned from this State's account in the unemployment trust fund solely for the payment of benefits and in accordance with regulations prescribed by the Director. The Director shall from time to time requisition from the unemployment trust fund such amounts, not exceeding the amounts standing to this State's account therein, as he deems necessary for the payment of benefits for a reasonable future period. Upon receipt thereof the Treasurer of the Fund shall deposit such moneys in the benefit payment account and shall issue his checks for the payment of benefits solely from such benefit account. Expenditures of such moneys in the benefit payment account and refunds from the clearing account shall not be subject to any provisions of law (and

shall be in lieu of all provisions of law) requiring specific appropriations or other formal release by State officers of moneys in their custody. All checks issued by the Treasurer of the Fund for the payment of benefits shall bear the signature of said Treasurer, and the counter-signature of the Director or his duly authorized agent both in such manner as the Director may prescribe. Any balance of moneys requisitioned from the unemployment trust fund which remains unclaimed or unexpended in the benefit payment account after the expiration of the period for which such sums were requisitioned shall either be deducted from estimates for, and may be utilized for the payment of benefits during succeeding periods, or in the discretion of the Director, shall be redeposited with the Secretary of the Treasury of the United States to the credit of this State's account in the unemployment trust fund as provided in subsection (b) of this section. (d) Transfer of Funds to the Railroad Unemployment Insurance Account. Notwithstanding any requirements of this Section, the Director shall, thirty days after the close of this session of the Legislature, authorize and direct the Secretary of the Treasury of the United States to transfer from this state's account in the Unemployment Trust Fund, established and maintained pursuant to Section 904 of the Social Security Act as amended, to the Railroad Unemployment Insurance Account, established and maintained pursuant to Section 10 of the Railroad Unemployment Insurance Act, an amount hereinafter referred to as the preliminary amount; and shall, prior to whichever is the latter of (1) thirty days after the close of this session of the Legislature, and (2) January 1, 1940, authorize and direct the Secretary of the Treasury of the United States to transfer from this State's account in said Unemployment Trust Fund to said Railroad Unemployment Insurance Account an additional amount, hereinafter referred to as the liquidating amount. The Social Security Board shall determine both such amounts after consultation with the Director and the Railroad Retirement Board. The preliminary amount shall consist of that proportion of the balance in the Unemployment Compensation Fund as of June 30, 1939, as the total amount of contributions collected from employers and employees (as the terms "employer" and "employee" are defined in Section 1 (a) and 1 (d) of the Railroad Unemployment Insurance Act) and credited to the Unemployment Compensation Fund bears to all contributions theretofore collected under this Act and credited to the Unemployment Compensation Fund. The liquidating amount shall consist of the total amount of contributions collected from employers and employees (as the terms "employer" and "employee" are defined in Section 1 (a) and 1 (d) of the Railroad Unemployment Insurance Act) pursuant to the provisions of this Act during the period July 1, 1939, to December 31, 1939, inclusive.

Section 3. That Section 4 of the Act, the title of which appears in the caption hereof, be amended to read as follows: Section 4. CONTRIBUTIONS. (a) Payment. On and after the first day of January, 1936, contributions shall accrue and become payable by each employer then subject to this Act. Thereafter contributions shall accrue and become payable by any new employer on and after the date on which he becomes newly subject to this Act. The contributions required hereunder shall be paid by each employer in such manner and at such times as the Director may prescribe. (b) Rates of Contributions. Every employer shall pay contributions equal to the following percentages of the total wages payable or paid as hereinafter set out, with respect to employment by him: (1) With respect to employment during the calendar year 1936 the rate shall be ninety one-hundredths (.90) of one per centum of such total wages payable; (2) With respect to employment during the calendar year 1937 the rate shall be one and eighty one hundredths (1.80) per centum of such total wages payable; (3) With respect to employment during the calendar years 1938 and 1939 the rate shall be two and seventy one-hundredths (2.70) per centum of such total wages payable; (4) With respect to employment after December 31, 1939, every employer shall, except as hereinafter otherwise provided, pay contributions of two and seventy one-hundredths (2.70) per centum of such total wages paid by him with respect to employment during each month. (c) Experience rating. The Governor shall appoint a committee, to serve without pay, other than necessary travel expenses, of not less than three nor more than five members, to make a study of experience rating. The committee shall investigate and make its recommendations to the Governor not later than December 31, 1940, upon the type of experience rating system considered to be administratively most feasible and best calculated to fix the annual contribution rate to the fund by each employer in such a manner as would encourage and stimulate the maintenance of employment and the objectives of this Act. The Director shall supply the committee with such information and clerical assistance as it may require. Before making its final recommendations, the committee shall seek and obtain the advice of interested individuals or groups of employers and employees and shall make available for their consideration from time to time interim reports of the progress of the study and investigation. The committee shall take into account all relevant and measurable factors which it deems to have a bearing on the stabilization of employment, unemployment contributions, and solvency of the fund, and in so doing shall consider all available taxable employment experience, seasonality of employment, part time employment, partial unemployment, and any other measurable factors which it finds bear a reasonable relation to the objectives hereof. The committee's recommendation

for such rating system shall take into account all facts it deems best calculated to rate equitably the experience of each employer, and shall, if feasible, provide for a system of individual experience rating for each employer, based upon such employer's employment record. (d) Contributions by Employees. Each employee employed by an employer subject to this Act shall contribute to the fund one per centum of his wages earned after May 1, 1936 and after the date as of which the conditions determining that his employer is subject to the Act have been fulfilled, provided that after December 31, 1939 such contributions shall be computed on the basis of wages paid for employment. Provided, further, however, that after December 31, 1939, no employee shall be required to pay contributions on that part of his wages which, after wages equal to \$3,000 have been paid such employee by a subject employer with respect to such covered employment during any calendar year is paid to such employee by such employer with respect to employment during such calendar year. If by reason of an employee rendering service for more than one employer during any calendar year after the calendar year 1939, the wages of the employee with respect to employment during such year exceed \$3,000, the employee shall be entitled to a refund of any amount of contribution with respect to such wages, imposed by this Act, deducted from such wages and paid to the fund, which exceeds the contribution with respect to the first \$3,000 of such wages paid. Refund under this section may be made in accordance with the provisions of section 14 of this Act applicable in case of erroneous or illegal collection of contributions. Each employer shall, notwithstanding any provisions of law in this State to the contrary, be responsible for withholding, and shall withhold, in trust, such contributions from the wages of his employees at the time such wages are paid, and shall show such deductions on his payrolls and records, and shall transmit all contributions to the fund pursuant to general rules. Contributions by employees payable to the fund as herein provided, shall be exempt from garnishment, attachment, execution or any other remedy for the collection of debts.

Section 4. That section 5 of the Act, the title of which appears in the caption hereof, be amended to read as follows: Section 5. PAYMENT OF BENEFITS. (a) After contributions have been due under this Act for two years, benefits shall become payable from the fund to any employee who thereafter is or becomes unemployed and eligible for benefits, and shall be paid through Employment Offices or such other agencies at such times and in such manner as the Director may prescribe. Provided, that wages earned for services defined in paragraph (g) (IV) (9) of Section 2 of this Act, irrespective of when performed, shall not be included for purposes of determining eligibility, under section 6 A (e) or weekly benefit amount, under subsection (c) of this

section, for the purposes of any benefit year commencing on or after July 1, 1939, nor shall any benefits with respect to unemployment occurring on and after July 1, 1939, be payable under subsection (e) of this section on the basis of such wages. (b) Unemployment. An individual shall be deemed totally unemployed in any week during which he performs no services and with respect to which no wages are payable to him, and shall be deemed partially unemployed in any week of less than full-time work if the wages payable to him with respect to such week are less than his weekly benefit amount. The Director shall prescribe regulations applicable to unemployed individuals, making such distinctions in the procedures as to total unemployment, part-total unemployment, partial unemployment of individuals attached to their regular jobs, and other forms of short-time work, as the Director deems necessary. Wages are deemed to be payable to an individual working on a commission basis with respect to each week in which he works. (c) Weekly Benefit Amount. An individual's "weekly benefit amount" shall be the amount appearing in Column B in the table in this subsection on the same horizontal line on which, in Column A of such table, there appears the total wages earned by such individual for insured work in that quarter of his base period in which such total wages were highest: Column A—Column B—Column C - Wages earned in highest quarter of base period - Weekly Benefit Amount - Qualifying wages in base period - Under - 39.00 - None - None - \$39.01 - 65.00 - \$2.00 - \$60.00 - 65.01 - 91.00 - 3.00 - 90.00 - 91.01 - 117.00 - 4.00 - 120.00 - 117.01 - 143.00 - 5.00 - 150.00 - 143.01 - 169.00 - 6.00 - 180.00 - 169.01 - 195.00 - 7.00 - 210.00 - 195.01 - 221.00 - 8.00 - 240.00 - 221.01 - 247.00 - 9.00 - 270.00 - 247.01 - 273.00 - 10.00 - 300.00 - 273.01 - 299.00 - 11.00 - 330.00 - 299.01 - 325.00 - 12.00 - 360.00 - 325.01 - 351.00 - 13.00 - 390.00 - 351.01 - 377.00 - 14.00 - 420.00 - 377.01 and over 15.00 - 450.00. (d) Weekly Benefit for Unemployment. Each eligible individual who is totally unemployed or partially unemployed in any week shall be paid with respect to such week a benefit in an amount equal to his weekly benefit amount less that part of the wages (if any) payable to him with respect to such week which is in excess of two dollars. Such benefit, if not a multiple of one dollar, shall be computed to the nearest multiple of one dollar. (e) Duration of Benefits. Any otherwise eligible individual shall be entitled during any benefit year to a total amount of benefits equal to whichever is the lesser of (1) twenty times his weekly benefit amount, and (2) one third of the wages earned by him for insured work during his base period; provided that such total amount of benefits, if not a multiple of one dollar, shall be computed to the nearest multiple of one dollar. For the purposes of this section, wages shall be counted as "wages for insured work" for benefit purposes with respect to any benefit year

only if such wages were earned in the base period immediately preceding such benefit year. (f) Seasonal Employment and Benefit Rights. (1) As used in this section, the term "seasonal industry" means an industry in which, because of the seasonal nature thereof, it is customary to lay off 40% or more of the workers for as many as eight weeks during a regularly recurring period of each year. The Director shall, after a study of previous employment records and after investigation and hearing, determine, and may thereafter from time to time redetermine, (1) the basis to be used in determining the percentage of lay off, and (2) the normal seasonal period or periods during which workers are ordinarily employed for the purpose of carrying on seasonal operations in each seasonal industry. Until such determination by the Director, no industry shall be deemed to be seasonal. (2) The term "seasonal worker" means an individual who is ordinarily employed in a seasonal industry. (3) The Director shall prescribe fair and reasonable general rules applicable to seasonal workers for determining the period during which benefits shall be payable to them. The Director may prescribe fair and reasonable general rules with respect to such other matters relating to benefits for seasonal workers as the Director finds necessary and consistent with the policy and purposes of this Act. Rules prescribed pursuant to this paragraph shall, with respect to such workers, supercede any inconsistent provisions of this Act, but so far as practicable shall secure results reasonably similar to these provided in the analogous provisions of this Act. (g) Maritime employment and benefit rights. (1) As used in this subsection, "maritime employment" means employment in connection with the construction, repair, loading or unloading of vessels, and in connection with the handling of cargoes for vessels. The Director shall, after a study of previous employment records and after investigation and hearing, determine, and may thereafter from time to time redetermine which industries are maritime industries, within the meaning of this subsection. Until such determination by the Director, no industry shall be deemed to be a maritime industry. (2) The term "maritime worker" means an employee who is customarily or regularly employed in "maritime employment", such as men engaged in the construction or repair of vessels and in the operation of plants at which vessels are constructed or repaired, and it shall include longshoremen, dock workers, harbor workers and other employees in occupations which, after the Director has studied the nature thereof and the employment record of workers engaged therein, are found to be occupations in which employment regularly continues throughout substantially all the year. (3) The table shown in Section 5 (c) of this Act shall in all respects govern the benefit rights of maritime workers, except that the figures shown in Column A of such table shall represent "average quarterly earnings in

the base period" and not "wages earned in the highest quarter of base period." The "weekly benefit amount" of a maritime worker shall be the amount appearing in Column B in the table in Section 5 (c) of this Act on the same horizontal line on which, in Column A of such table, there appears the average quarterly earnings earned by such maritime worker for insured work in his base period, provided he has during his base period earned wages for insured work equal to not less than the amount appearing in Column C of such table on the same horizontal line on which in Column B of that table appears his weekly benefit amount. If a "maritime worker" has not been engaged in maritime employment for substantially the whole of his base period, the Director shall determine his average quarterly earnings on the basis of his earnings during the time he has actually been engaged in such maritime employment within his base period. (h) In determining an individual's benefit rights, remuneration payable but unpaid to such individual shall to the extent that regulations promulgated by the Director prescribed, be deemed to be 'wages paid' to such individual. Rules prescribed pursuant to this paragraph shall, with respect to such worker, supercede any inconsistent provisions of this Act, but so far as practicable shall secure results reasonably similar to those provided in the analogous provisions of this Act.

Section 5. That Section 6 of the Act, the title of which appears in the caption hereof, be amended to read as follows: Section 6. A. BENEFIT ELIGIBILITY CONDITIONS. An unemployed individual shall be eligible to receive benefits with respect to any week only if the Directors finds that (a) He has made a claim for benefits with respect to such week in accordance with such regulations as the Director may prescribe. (b) He has registered for work at, and thereafter continued to report at, an Employment Office in accordance with such regulations as the Director may prescribe, except that the Director may, by regulation, waive or alter either or both of the requirements of this subsection as to individuals attached to regular jobs and as to such other types of cases or situations with respect to which he finds that compliance with such requirements would be oppressive, or would be inconsistent with the purposes of this Act. (c) He is able to work and is available for work. (d) He has been totally unemployed for a waiting period of three weeks and for the purposes of this subsection two weeks of partial unemployment shall be deemed to be equivalent to one week of total unemployment. Such weeks of unemployment need not be consecutive. No week shall be counted as a week of unemployment for the purposes of this subsection:— (1) Unless it occurs within the benefit year which includes the week with respect to which he claims payment of benefits, provided that this requirement shall not interrupt the

payment of benefits for consecutive weeks of unemployment and provided further that the week or the three consecutive weeks immediately preceding the benefit year, if part of one uninterrupted period of unemployment which continues into such benefit year, shall be deemed (for the purposes of this subsection only) to be within such benefit year as well as in the preceding benefit year. (2) If benefits have been paid with respect thereto. (3) Unless the individual was eligible for benefits with respect thereto as provided in Sections 5, 6 and 7 of this Act, except for the requirements of this subsection. (c) He has during his base period earned wages for insured work equal to not less than the amount appearing in Column "C" of the table in Section 5 (c) of this Act, on the same horizontal line on which in column "B" of that table appears his weekly benefit amount. **B. DISQUALIFICATION FOR BENEFITS.** An individual shall be disqualified for benefits for total or partial unemployment:—(a) For any week in which his total or partial unemployment is directly due to a labor dispute still in active progress in the establishment in which he is or was last employed; for the purposes of this subsection only, the term "labor dispute" includes any controversy concerning terms, tenure or conditions of employment, or concerning the association or representation of persons in negotiating, fixing, maintaining, changing, or seeking to arrange terms or conditions of employment, regardless of whether the disputants stand in the proximate relation of employer and employee; provided that nothing in this subsection contained shall be applicable, either as an expression of policy or otherwise, to any claim on account of unemployment which shall have occurred in any week prior to the effective date hereof; this definition shall not relate to a dispute between an individual worker or his employer. (b) For the week in which he has left his work voluntarily without good cause connected with such work, and for the three next following weeks; (c) For the week in which he has been discharged for misconduct connected with his work, and for not less than the three nor more than the six next following weeks, as determined by the Director in each case according to the seriousness of the conduct; (d) For the week or weeks (not to exceed four weeks) in which or for which he has been suspended as a disciplinary measure connected with his work, or for misconduct connected with his work; (e) For the week in which he fails, without good cause, either to apply for suitable work when notified by an Employment Office, or to accept suitable work when offered him, or to return to his customary self-employment, if any, and for the three next following weeks: (1) In determining whether or not any work is suitable for an individual, the Director shall consider the degree of risk involved to his health, safety, and morals, his physical fitness, and prior training, his experience and

prior earnings, his length of unemployment and prospects for securing longer work in his customary occupation, and the distance of the available work from his residence; (2) Notwithstanding any other provisions of this Act, no work shall be deemed suitable and benefits shall not be denied under this Act to any otherwise eligible individual for refusing to accept new work under any of the following conditions: (i) If the position offered is vacant due directly to a strike, lock out, or other labor dispute; (ii) If the wages, hours, or other conditions of the work offered are substantially less favorable to the individual than those prevailing for similar work in the locality; (iii) If as a condition of being employed the individual would be required to join a company union, or to resign from or refrain from joining any bona fide labor organization. (f) For any week with respect to which he is receiving or has received remuneration in the form of wages in lieu of notice, or a dismissal or separation allowance. (g) For any week with respect to which or a part of which he has received or is seeking unemployment benefits under an unemployment compensation law of any other state or of the United States; provided, that if the appropriate Agency of such other state or of the United States finally determines that he is not entitled to such employment benefits this disqualification shall not apply. (h) For any week with respect to which he has received or is receiving any payment by way of compensation for the loss of wages through an employee pension plan; provided, however, that if such remuneration is less than the benefits which would otherwise be due under this Act, he shall be entitled to receive for such week, if otherwise eligible, benefits reduced by the amount of such remuneration. (i) If he has left his most recent work for the purpose of attending or if he is a student regularly attending an established educational institution during the school term or customary vacation periods within the school term.

Section 6. That Section 7 of this Act, the title of which appears in the caption hereof, be amended to read as follows: Section 7. CLAIMS FOR BENEFITS. (a) Filing. Claims for benefits shall be made in accordance with such general rules as the Director may prescribe. (b) Initial Determination. A representative designated by the Director and hereinafter referred to as a deputy, shall promptly examine the claim, and, on the basis of the facts found by him, shall either determine whether or not such claim is payable, and if payable, the week with respect to which benefits shall commence, the weekly benefit amount payable and the maximum duration thereof, or shall refer such claim or any question involved therein to an Appeals Tribunal, who shall make his decision with respect thereto, in accordance with the procedure described in subsection (c) of this Section, except that in any case

in which the payment or denial of benefits will be determined by the provisions of Section 6 B (a) of this Act, the deputy shall promptly transmit his full findings of fact with respect to that subsection to the Director, who, on the basis of evidence submitted and such additional evidence as he may require, shall affirm, modify or set aside such findings of fact and transmit to the deputy a decision upon the issue involved under that subsection, which shall be deemed to be the decision of the deputy. The Director shall promptly notify in writing claimant and his most recent employer of the decision and the reasons therefor. Unless the claimant or any such interested party, within seven calendar days after the delivery of the notification, or within ten calendar days after such notification was mailed to his last known address, files an appeal from such decision, such decision shall be final and benefits shall be paid or denied in accordance therewith. If an appeal is duly filed, disputed benefits with respect to the period prior to the final decision shall be paid only after such decision. The most recent employer and each employer of claimant during the base period shall be deemed a party in interest, but no employer other than the most recent employer, shall be entitled to notice until after he shall have become a party to the proceedings. (c) Appeals. Unless such appeal is withdrawn, an Appeals Tribunal, after affording the parties reasonable opportunity for fair hearing, shall affirm, modify or set aside the findings of fact and decision of the deputy. The parties shall be promptly notified in writing of such Tribunal's decision, together with his reasons therefor. Any appeal from a decision of a deputy with respect to any claim for benefits, the amount or validity of which is or may be affected by any labor dispute or alleged labor dispute shall be before the Board of Appeals in the first instance, and shall be heard by it in the same manner as provided for hearings of other types of cases before the Board of Appeals. (d) Appeals Tribunals. (1) To hear and decide disputed claims, except those with respect to which the amount or validity is or may be affected by a labor dispute or alleged labor dispute, the Director shall appoint one or more impartial Appeals Tribunals, consisting in each instance of an officer or an employee of the Department of Industrial Relations. No person shall participate in the hearing or disposition of any claim upon appeal thereof as an Appeals Tribunal, if he has an interest therein. At any such hearing all testimony shall be taken down, but need not be transcribed unless an appeal is applied for or taken. (2) The manner in which disputed claims before Appeals Tribunals shall be presented and the conduct of hearings and appeals before Appeals Tribunals shall be in accordance with regulations prescribed by the Director for determining the rights of the parties. (3) The decision of an Appeals Tribunal shall become final ten days after

notice of such decision has been mailed, postage prepaid to the claimant, and other parties to the proceedings, at the addresses furnished, or, if none shall have been furnished, at their last known addresses, unless within that time application be made to the Board of Appeals for permission to appeal to the Board of Appeals.

(e) Board of Appeals. (1) The Board of Appeals, created by the Industrial Relations Act of 1939 may on its own motion at any time before a decision of an Appeals Tribunal becomes final, affirm, modify or set aside any such decision on the basis of the evidence previously submitted in such case, or direct the taking of additional evidence, or may permit any party in interest to initiate an appeal to it. The Board of Appeals may remove to itself or transfer to another Appeals Tribunal the proceedings on any claim pending before an Appeals Tribunal. The Board of Appeals shall promptly notify in writing the parties to any proceedings of its findings and decision, together with the reason therefor. (2) Unless the application for appeal described in subsection (d) (3) of this Section is granted by the Board of Appeals within ten days after its filing with it the applicant may within the following ten days take an appeal from the decision of the Appeals Tribunal to the Circuit Court of the County of the residence of the claimant. (3) The manner in which disputed claims before the Board of Appeals shall be presented and the conduct of hearings and appeals before it shall be in accordance with the regulations prescribed by the Board of Appeals for determining the rights of the parties. At any such hearing the parties shall be afforded a reasonable opportunity for fair hearing and all testimony shall be taken down but need not be transcribed unless an appeal is applied for or taken. No person shall participate in the hearing or disposition of any claim as a member of the Board if he has an interest therein. (f) Appeals to the Courts. Any decision of the Board of Appeals in the absence of an appeal therefrom as herein provided shall become final ten days after the date notification thereof shall have been mailed, postage prepaid, to the parties to the proceeding, at their last known addresses. The Director shall be deemed to be a party to all such proceedings and to any judicial action involving any such decision. (g) Court Review. Within ten days after the decision of the Board of Appeals has become final, any party to the proceeding including the Director who claims to be aggrieved by the decision may secure a judicial review thereof by filing a notice of appeal in the Circuit Court of the county of the residence of the claimant. In such action the notice of appeal need not be verified, but shall state the grounds upon which a review is sought. A copy shall be served upon the Director or upon such person as the Director may designate (and for the purpose hereof, mailing a copy addressed to the Director at Montgomery by registered mail

shall be deemed service on the Director), and such service shall be deemed completed service on all parties, but there shall be left with the parties so served as many copies of the notice of appeal as there are defendants, and the Director shall therewith mail one copy to each defendant. The Director shall cause to be certified and filed in the said court all documents and papers introduced in evidence before the Board of Appeals or Appeals Tribunal together with the findings of fact and the decision of the Board of Appeals or the Appeals Tribunal, as the case may be. No Circuit Court shall permit an appeal from a decision allowing or disallowing a claim for benefits unless the decision sought to be reviewed is that of an Appeals Tribunal or of the Board of Appeals and unless the person filing such appeal has exhausted his administrative remedies as provided by this Act. Trial in the Circuit Court shall be *de novo*. Actions under this Act shall be tried by any Judge of the Circuit Court to whom application is made at any location in said circuit, and shall be given precedence over all other civil cases except cases arising under the Workmen's Compensation Law of this State. An appeal may be taken from the decision of the Circuit Court in the same manner as is provided in civil cases, except that such appeal must be taken within thirty days after the final ruling of the Circuit Court. It shall not be necessary in any judicial proceeding, under this paragraph, to enter exceptions to the rulings of the Board of Appeals or the Appeals Tribunals, as the case may be, and no bond shall be required before entering such appeal. Upon the final determination of such judicial proceeding, the Board of Appeals shall enter an order in accordance with such determination. (h) The procedure provided in this section for the making of determinations with respect to claims for unemployment compensation benefits and for appealing from such determinations shall be exclusive. (i) Oaths and Witnesses. In the discharge of their duties under this section any deputy, any Appeals Tribunal, any member of the Board of Appeals, and any officer of the Department of Industrial Relations authorized and designated by the Director, shall have power to administer oaths, certify to official acts, take and cause to be taken depositions of witnesses, issue and serve subpoenas, compel the attendance of witnesses and the production of papers, books, accounts, payrolls, documents, records and testimony. In the event of failure of any person to comply with any subpoena lawfully issued, or on the refusal of any witness to produce evidence or to testify as to any matter regarding which he may be lawfully interrogated, it shall be the duty of any court of competent jurisdiction or of the Judge thereof, upon the application of the Director or any officer of the Department of Industrial Relations designated by the Director, or any member of the Board of Appeals, to compel obedience by at-

tachment proceedings for contempt as in the case of disobedience of the requirements of a subpoena issued for such court or a refusal to testify therein. Witness fees and other expenses involved in the proceedings under this Section shall be paid to the extent necessary at rates specified by the Director. Such expenses shall be deemed a part of the expense of administering this Act.

Section 7. That Section 8 of the Act, the title of which appears in the caption hereof, be amended to read as follows: Section 8. TRANSITIONAL PROVISIONS. (a) As used in this section unless the context clearly requires otherwise; (1) "Old Law" means the Unemployment Compensation Law prior to its amendment by this Act. (2) "New Law" means the Unemployment Compensation Law as amended by this Act. (3) "Effective Date" means the date upon which the new law becomes effective. (b) Except as otherwise specifically provided in Subsection (c) of this Section, the new law shall be exclusively applicable with respect to any individual on and after the effective date. No provision of the old law shall be construed to limit or to extend the rights of any individual as fixed by the new law, after the new law becomes exclusively applicable with respect to such individual as provided in this section. (c) With respect to any individual for whom there is current a benefit year, established pursuant to subsection 2 (s) of the old law, which has not expired prior to the effective date, the base period 2 (r), benefit year 2 (s), duration of benefits 5 (d) and qualifying wages 6 (a) of the old law, and the weekly benefit amount determined pursuant to sections 2 (u), 5 (b) and 5 (c) of the old law, shall be exclusively applicable until the expiration of such current benefit year, except that: (1) Notwithstanding any provisions of the old law to the contrary, the base period of such individual and the period usable in the determination or redetermination of his full-time weekly wage shall in no event extend after the last day of the next to the last completed calendar quarter immediately preceding the effective date, and (2) Notwithstanding any provision to the contrary, of the old or the new law, no waiting period shall be required of any such individual after the effective date and before the expiration of such current benefit year, and (3) Notwithstanding any provision to the contrary of the old or the new law, the weekly benefit amount and the maximum total benefits payable during such current benefit year shall, if not a multiple of one dollar, be computed to the nearest multiple of one dollar with respect to all weeks of unemployment occurring after the effective date. (d) The new law shall be exclusively applicable with respect to such individual after the expiration of such benefit year.

Section 8. That Section 9 of the Act, the title of which appears in the caption hereof, be amended to read as follows: Section 9.

PERIOD AND TERMINATION OF EMPLOYER'S COVERAGE. (a) Except as otherwise provided in subsection (b) of this section, an employer shall cease to be an employer subject to this Act only as of the first day of January of any calendar year, if he files with the Director, prior to the thirty-first day of March of such year, a written application for termination of coverage, and the Director finds that he has not on each of some twenty days, each day being in a different calendar week, in the last completed calendar year employed eight or more individuals in employment subject to the Act. Any employing unit which is or becomes an employer subject to this Act within any calendar year shall be an employer subject to this Act during the whole of such calendar year. (b) Any employing unit not otherwise subject to this Act, which files with the Director its written election to become an employer subject hereto for not less than two calendar years, shall, with the written approval of such election by the Director, become an employer subject hereto to the same extent as all other employers, as of the date stated in such approval, except that if during the calendar year in which such election is filed, the employer has eight or more employees in employment subject to the Act on each of some twenty days, each day being in a different calendar week, in that year, the employer shall be liable for employer contributions based on all wages paid by him since January 1st of that calendar year. Such employer shall cease to be subject to the Act as of January 1st of any calendar year subsequent to such two calendar years only if at least thirty days prior to such first day of January it has filed with the Director a written notice to that effect. (c) The Director may refuse to terminate any employer's coverage under this Act, if such employer is delinquent, at the time of filing of the application or notice provided for in this section, in the payment of any contributions, interest or penalty.

Section 9. That Section 10 of the Act, the title of which appears in the caption hereof, be amended to read as follows: Section 10. ADMINISTRATION. (a) Duties and Powers of the Director. It shall be the duty of the Director to administer this Act; and he shall have power and authority to adopt, amend, or rescind such lawful rules and regulations, to employ such persons, make such expenditures, require such reports, make such investigations, and take such other action as may be necessary or suitable to that end. The Director shall determine his own organization and methods of procedure in accordance with the provisions of this Act and the Industrial Relations Act of 1939. Annually the Director shall submit to the Governor a summary report covering the administration and operation of this Act during the preceding fiscal year, and make such recommendations as he deems proper. Whenever the Director believes that a change in contribution or

benefit rates will become necessary to protect the solvency of the fund, he shall at once inform the Governor and the Legislature thereof, and make recommendations accordingly. (b) Rules and Regulations. General rules interpreting or applying this Act and affecting all (or classes of) employers, or other employing units, shall be adopted by the Director only after a public hearing thereon, notice of which shall be published at least once, not less than ten days prior thereto in daily newspapers published in Montgomery, Birmingham and Mobile, Alabama and in such other newspaper or newspapers as the Director may prescribe. Prior to such hearing the Director shall furnish to any person upon his application therefor a copy of the proposed general rules to be considered at the hearing. Such general rules shall upon adoption by the Director be filed with the Secretary of State and, subject to the provisions of subsection (c) of this section, shall take legal effect ten days thereafter unless a later date is specified by the Director which rules may be amended or repealed in the same manner as is above provided for their adoption. The Director shall by general rule prescribe the manner in which regulations may be adopted, amended or rescinded. All rules and regulations adopted by the Director and the Unemployment Compensation Commission of Alabama, which are of force at the time of the passage of this Act, shall remain of full force and effect until and unless specifically amended, altered or repealed by the Director. (c) The Director shall cause to be printed in proper form for distribution to the public the text of this Act, general rules, his annual report to the Governor, and any other material he deems relevant and suitable, and shall furnish the same to any person upon application therefor; and such printing and availability upon application shall be deemed a sufficient publication of the same. Copies of all general rules and regulations, as and when adopted, amended, or repealed, shall be forwarded by the Director to all employers subject to this Act, who request in writing that they be placed on the mailing list therefor; such rules and regulations shall in no event become effective until after the requirements of this subsection have been complied with. (d) Personnel. The Director shall, with the approval of the Governor, determine the number of employees needed for the efficient and economical performance of the functions and duties of administering this Act and the salaries to be paid all such employees. All positions in the administration of this Act shall be filled subject to the provisions of any law heretofore or hereafter enacted with respect to the method of selection and classification of employees on a merit basis. Whether any such law shall have heretofore or shall be hereafter enacted or not, however, the minimum standards that may be prescribed by the Social Security Board or its successor with respect to the selection and classifica-

tion of officers and employees engaged in the performance of any of the functions and duties of the Department of Industrial Relations having to do with the administration of the Unemployment Compensation Law in this state, shall be observed. The Director shall fix the duties and powers of all persons thus employed, and may authorize any such person to do any act or acts which could lawfully be done by the Director. The Director may in his discretion require and fix the amount of bond for any persons handling moneys or signing checks hereunder, and the premium paid for such bonds shall be deemed to be a proper cost of administration of this Act. (e) Advisory Councils. The Governor shall appoint an advisory council of not less than nine members, composed of equal numbers of employer representatives and employee representatives, who may be fairly regarded as representative because of their vocation, employment or affiliations, and of members representing the public generally. Such council shall aid the Director in formulating policies and discussing problems related to the administration of this Act, and in assuring impartiality, and freedom from political influence in the solution of such problems, and shall perform such other duties and functions as may be assigned to it by the Director, and as it may, on its own initiative, undertake, within the limits of this subsection. Such advisory council shall serve at the pleasure of the Governor, and without compensation, but shall be reimbursed for any necessary traveling expenses. Said council shall from time to time prepare recommendations as to the administration of this Act, and as to changes, amendments or modifications of such acts and laws of the State of Alabama, and particularly this Act, as such council may deem proper, and said recommendations shall be submitted to the Governor and to the Legislature at its next session and at such succeeding sessions. (f) Employment Stabilization. It shall be one of the purposes of this Act to promote the regularization of employment in enterprises, localities, industries and the state. The Director, with the advice and aid of the advisory councils shall take all appropriate steps within his means to reduce and prevent unemployment; to encourage and assist in the adoption of practical methods of vocational training, retraining and vocational guidance; to investigate, recommend, advise and assist in the establishment and operation, by municipalities, counties, school districts and the State, of reserves for public works to be used in times of business depression and unemployment; to promote the reemployment of unemployed workers throughout the State in every other way that may be feasible; and to these ends to employ experts and to carry on and publish the results of investigations and research studies. (g) Every employing unit shall keep true and accurate work records containing such information as is necessary for the administration of this

Act. Such records shall be open to inspection and be subject to being copied by the Director or his authorized representatives at any reasonable time and as often as may be necessary. The Director, an Appeals Tribunal, any member of the Board of Appeals, created by the Industrial Relations Act of 1939, or any authorized representative of the Director may require from such employer or employing unit such reports covering persons employed by him or it, or employment, wages, hours, unemployment and related matters, as are necessary to the effective administration of this Act. Information thus obtained shall be held confidential, except to the extent necessary for the proper presentation of the contest of a claim, and shall not be published or be open to public inspection in any manner revealing the employers 'or employing units' identity. Any person violating any provision of this subsection shall be fined not less than twenty dollars nor more than two hundred dollars or imprisoned for not longer than thirty days, or both. All letters, reports, communications and other matters, written or oral, from employer or employe to each other or to the Director or any of his agents, representatives or employees, or to any official or Board functioning under this Act, which shall have been written, sent, delivered or made in connection with the requirements and administration of this Act, shall be absolutely privileged and shall not be made the subject matter or basis for any suit for slander or libel in any court. (h) Representation in Court. The Director and the State, in any court action relating to this Act or its administration and enforcement, shall be represented by any qualified attorney regularly employed by the Department of Industrial Relations, and who is designated by the Director for such purpose, provided, however, that the Director may request the Attorney General or such special counsel as he deems necessary to represent him in any such action. (i) State Federal Cooperation. (1) In the administration of this Act, the Director shall cooperate to the fullest extent consistent with the provisions of this Act with the Federal Social Security Board created under the Social Security Act and shall make such reports, in such form and containing such information as the Social Security Board may from time to time require, and shall comply with such provisions as the Social Security Board may from time to time find necessary to insure the correctness and verification of such reports; and shall comply with the regulations prescribed by the Social Security Board governing the expenditures of such sums as may be allotted and paid to this State under Title III of the Social Security Act for the purpose of assisting in the administration of this Act. Upon request therefor the Director shall furnish to any agency of the United States charged with the administration of public works or assistance through public employment, the name, address, ordinary

occupation and employment status of each recipient of benefits and such recipient's rights to further benefits under this Act. (2) The Director may make the state's records relating to the administration of this Act available to the Railroad Retirement Board and may furnish the Railroad Retirement Board, at the expense of such Board, such copies thereof as the Railroad Retirement Board deems necessary for its purposes. For the purpose of establishing and maintaining free public employment offices, the Director is authorized to enter into agreements with the Railroad Retirement Board, or any other agency of the United States charged with the administration of an unemployment compensation law, with any political subdivision of this State, or with any private, non-profit organization, and as a part of such arrangement the Director may accept moneys, services, or quarters as a contribution to the employment service account. Moneys received from the Railroad Retirement Board as compensation for services or facilities supplied to said Board shall be paid into the unemployment compensation administration fund and the employment service fund on the same basis as expenditures are made for such services or facilities from such funds. (3) The Director may afford reasonable cooperation with any agency of the United States charged with the administration of any unemployment insurance law. (j) Compromise. The Director may compromise or waive any civil penalty or interest charge arising under the provisions of this Act instead of commencing suit thereon and may compromise any such penalty or interest charge after suit thereon has been commenced. In such cases the Director shall keep on file in the office of the Department of Industrial Relations at Montgomery, Alabama, the reasons for settlement by compromise, together with a statement of the amount of contribution imposed, the amount of additional contribution or penalty or interest imposed by law in consequence of neglect or delinquency, and the amount actually paid in accordance with the terms of the compromise.

Section 10. That Section 12 of the Act, the title of which appears in the caption hereof, be amended to read as follows: Section 12. RECIPROCAL ARRANGEMENTS. (a) The Director is hereby authorized to enter into arrangements with the appropriate agencies of other states or the Federal Government whereby individuals performing services in this and other states for employing units under circumstances not specifically provided for in Sections 2 (f) and 2 (g) of this Act, or under similar provisions in the Unemployment Compensation Laws of such other states shall be deemed to be engaged in employment performed entirely within this state or within one of such other states and whereby potential rights to benefits accumulate under the Unemployment Compensation Laws of several states or under such a law of the Federal

Government, or both, may constitute the basis for the payment of benefits through a single appropriate agency under terms which the Director finds will be fair and reasonable as to all affected interests and will not result in any substantial loss to the fund. (b) The Director is also authorized to enter into arrangements with the appropriate agencies of other states or of the Federal Government. (i) Whereby wages or services, upon the basis of which an individual may become entitled to benefits under the Unemployment Compensation Law of another state or of the Federal Government, shall be deemed to be wages for insured work for the purposes of Sections 5 and 6 of this Act, provided such other state agency or agency of the Federal Government has agreed to reimburse the fund for such portion of benefits paid under this Act upon the basis of such wages or services as the Director finds will be fair and reasonable as to all affected interests, and (ii) Whereby the Director will reimburse other state or Federal Agencies charged with the administration of unemployment compensation laws with such reasonable portion of benefits, paid under the law of any such other state or of the Federal Government upon the basis of employment or wages for insured work as the Director finds will be fair and reasonable as to all affected interests. Reimbursements so payable shall be deemed to be benefits for all the purposes of Sections 3 and 5 of this Act, but no reimbursement so payable shall be charged against any employer's account for the purposes of Section 4 of this Act. The Director is hereby authorized to make to other state or Federal Agencies and receive from such other state or Federal Agencies reimbursements from or to the fund, in accordance with arrangements pursuant to this Section.

Section 11. That Section 13 of the Act, the title of which appears in the caption hereof, be amended to read as follows: Section 13. PROTECTION OF RIGHTS AND BENEFITS.

(a) Any agreement by an employee to waive or release his rights to benefits or any other rights under this Act shall be void. Any agreement by an employee to pay all or any portion of his employer's contributions, required under this Act from such employer, shall be void. No employer shall directly or indirectly make or require or accept any reduction from wages to finance the employer's contributions required of him, or require or accept any waiver of any right hereunder by any employee in his employ. Any employer or officer or agent of an employer who violates any provision of this subsection shall be guilty of a misdemeanor and upon conviction, for each offense be fined not less than twenty five dollars nor more than one hundred dollars or be imprisoned for not more than sixty days, or both. (b) Limitation of Fees. No individual shall be charged fees of any kind by the Director or his

representatives, in any proceeding under this Act. Any individual claiming benefits in any proceeding or court action may be represented by counsel or other duly authorized agent; but no such counsel or agents shall together charge or receive for such services more than ten per centum of the maximum benefits at issue in such proceeding or court action. (c) Assignment of Benefits; Exemptions. Any assignment, pledge, or encumbrance of any right to benefits which are or may become due or payable under this Act shall be void, and such rights to benefits shall be exempt from levy, execution, attachment, or any other remedy whatsoever provided for the collection of debts. Any waiver of any exemption provided for in this subsection shall be void. (d) Protection against Self-Incrimination.—No person shall be excused from attending and testifying or from producing books, papers, correspondence, memoranda, and other records before the Director, the Board of Appeals, the chairman of an appeal tribunal, or any duly authorized representative of any of them, or in obedience to the subpoena of any of them in any cause or proceeding before the Director, the Board of Appeals, or an appeal tribunal, on the ground that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate him or subject him to a penalty or forfeiture; but no individual shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he is compelled to testify or produce evidence, documentary or otherwise, except that such individual so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying.

Section 12. That Section 14 of the Act, the title of which appears in the caption hereof, be amended to read as follows: Section 14. COLLECTION OF CONTRIBUTIONS. (a) Interest on Delinquent Payments. Contributions unpaid on the date when they are due and payable as provided herein, or as may be provided by rules or regulations hereunder, shall bear interest at the rate of one percent per month from and after such date until payment is received by the Director. (b) Penalties. Any employer without good cause failing to pay any contribution within the time required by this Act, or the rules and regulations of the Director, shall be required by the Director to pay in addition thereto a penalty of ten percent of the amount thereof together with interest on said contributions at the rate prescribed in this section. If the failure to pay on the part of the employer is due to fraud, an additional penalty of fifteen percent shall be assessed against, and collected from, such defaulting employer. (c) Court Action. (1) If, after due notice, any employer defaults in any payment of contributions, interest or penalties provided by this Act, the amount due may be collected by civil suit in the name of the

Director, which shall include the right of attachment. Civil actions brought under this Section to collect contributions, interest and penalties thereon from an employer shall be heard by the court at the earliest possible date and shall be entitled to preference upon the calendar of the court over all other civil actions, except cases arising under the Workmen's Compensation Law of this State, and under Section 7 of this Act. In addition to or independently of the above remedy by civil action, the Director after giving an employer who defaults in any payment of contributions, interest or penalties provided by this Act, fifteen days written notice by registered mail, addressed to his last known place of business or address, may file in the office of the Clerk of the Circuit Court of the Circuit in which the employer has his principal place of business, a statement, specifying the amount of the contributions, interest and penalties due, the name and last known address of the employer liable for the same, that the Director has complied with all the provisions of this Act in relation to the computation and levy of contributions, interest and penalty, and a request that judgment be entered against the employer in the amount of the contributions, interest and penalty set forth in the statement; provided, however, that the employer may, within said fifteen day period, pay the amount specified in such notice, under protest, and shall thereupon have the right to initiate, within sixty days following such payment, and to maintain, his action against the Director for a refund of all or part of any such amount and to recover so much thereof as may have been erroneously assessed or paid, such action to be brought and prosecuted in the county wherein is located the principal place of business of the employer, and if the employer is successful in such action refund shall be made accordingly by the Director. If no such payment is made, the Clerk of the Circuit Court immediately upon the filing of such statement shall enter a judgment for the Director of Industrial Relations against the employer in the amount of the contributions, interest and penalty set forth in the statement. A certificate of such judgment or a copy thereof may be filed in the Probate Court of any county in the State and from the time of such recording the amount of the contributions, interest and penalty therein set forth shall constitute a prior lien upon all the real and personal property of the employer in such county, except as to the lien of general property taxes and except as to valid liens existing at the time of the filing of the statement herein provided for. Execution shall issue upon such a judgment upon request of the Director in the same manner as execution may issue upon other judgments and sales shall be held under such execution as provided by the laws of Alabama. In all proceedings under this Section the Director, his authorized agents shall be empowered to act on behalf of the State

of Alabama in bidding at any such sale and otherwise. (2) If an employer fails to make and file any report as and when required by the terms and provisions of this Act or by any rule or regulation of the Director, for the purpose of determining the amount of contributions due by said employer under this Act, or if any report which has been filed is deemed by the Director to be incorrect or insufficient, and such employer after having been given written notice, by registered mail, by the Director to file such a report, or a corrected or sufficient report, as the case may be, shall fail to file such report within fifteen days after the date of the filing of such notice, the Director may (1) determine the amount of contributions due from such employer on the basis of such information as may be readily available to him, which said determination shall be prima facie correct, (2) assess such employer with the amount of contributions determined, and (3) immediately give written notice by registered mail, to such employer of such determination, assessments, demands, and penalties, if any, added and assessed, demanding payment of same together with interest, as herein provided, on the amount of contributions from the date when same were due and payable. Such determination and assessment shall be final at the expiration of fifteen days from the date of the mailing of such written notice thereof, demanding payment, unless such employer shall have filed with the Director a written protest and petition for a hearing, specifying the objections thereto. Upon receipt of such petition within the fifteen days allowed, the Director shall fix the time and place for a hearing and shall notify the petitioner thereof. At any hearing held before the Director as herein provided, evidence may be offered to support such determination and assessment or to prove that it is incorrect; provided, however, that at such hearing the petitioner shall be required to show wherein that it is incorrect or else file full and complete corrected reports. Immediately after such hearing the final decision in the matter shall be made by the Director, and any contributions or deficiencies in contributions found by the Director to be due, shall be assessed and paid, together with interest and assessed demands, within fifteen days after notice of such final decision and assessment and demand for payment thereof by the Director shall have been mailed to such employer. (3) The contributions required to be paid under this Act shall be a first and prior lien upon the real and personal property of any employer subject to this Act, except as to the lien of general property taxes and except as to valid liens existing at the time of the filing of the certificate of judgment as provided for herein, and shall take precedence over all other liens or claims of whatsoever kind or nature: provided, however, that such lien shall be effective as to purchasers and judgment creditors only from the time a certificate of

judgment against the employer shall have been duly filed for record in the office of the judge of probate of the county wherein is located the property to be subjected to such lien. (d) Bankruptcy or Insolvency. In the event of bankruptcy of any employer, or of liquidation of an employer under any law of this state by reason of insolvency or inability to pay his debts, the amount due for contributions on behalf of the employer shall have the same status and priority as other taxes due the State; provided, that in the event of an employer's adjudication in bankruptcy, judicially confirmed extension proposal, or composition of creditors under the Federal Bankruptcy Act of 1898, as amended, contributions then or thereafter due shall be entitled to such priority as is provided therein for other taxes due and owing this State. (e) Extensions. The Director for good cause may extend the time for payment of any contributions required by this Act, and without interest or penalty, for not to exceed ninety days, subject to such conditions and restrictions as the Director may impose. (f) Refunds. If not later than four years after the date on which any contributions, penalties, or interest became due an employer who has paid such contributions, penalties, or interest thereon shall make application for an adjustment thereof in connection with subsequent contribution payments, or for a refund thereof because such adjustment cannot be made, and the Director shall determine that such contributions, penalties or interest, or any portion thereof was erroneously collected, the Director shall allow such employer to make an adjustment thereof in connection with subsequent contribution liability or if such adjustment cannot be made the Director may refund such contributions, penalties and interest, from the Clearing Account; if the Director shall deny, in whole or in part, any such application, the applicant may, within sixty days after notice of such action, to be given by the Director by mail, appeal to the circuit court of the county wherein is the principal place of business of the applicant, and the trial in that court shall be without a jury, and the court shall render such judgment as the facts and circumstances warrant. For like cause and within four years, adjustment or refund may be made on the Director's own initiative; provided, however, that before such adjustment or refund may be approved the employer must conform to applicable rules and regulations of the Director with respect to the refund to the employees entitled thereto of any moneys deducted by the employer in accordance with the provisions of this Act.

Section 13. That Section 15 of the Act, the title of which appears in the caption hereof, be amended to read as follows: Section 15. PENALTIES. (a) Whoever wilfully makes a false statement or representation to obtain or increase any benefit or other payment under this Act, either for himself, or for any other person,

shall upon conviction be punished by a fine of not less than twenty nor more than fifty dollars, or by imprisonment for not longer than thirty days, or both such fine and imprisonment; and each such false statement or representation shall constitute a separate and distinct offense. (b) Any officer or agent of an employer, or any employer who is an individual, who wilfully makes a false statement or representation to avoid his employer or himself becoming or remaining subject to this Act for contributions, or to reduce any contribution or other payment required of such employer or him under this Act, or who wilfully fails or refuses to make any such contributions or other payments as lawfully required hereunder, or who induces any employee to waive any rights under this Act; or, any officer or agent of an employing unit, or any employing unit who is an individual, who refuses to furnish reports duly required hereunder or to appear or testify or produce records as lawfully required hereunder, shall upon conviction be punished by a fine of not less than twenty nor more than two hundred dollars or by imprisonment for not longer than sixty days, or by both such fine and imprisonment; and each such false statement or representation and each day of such failure or refusal, and each such inducement shall constitute a separate and distinct offense. (c) Any claimant convicted by a court of competent jurisdiction of making false or fraudulent representations with the object of obtaining benefits to which he was not entitled shall be declared ineligible to receive benefits for such number of weeks not less than eight weeks from the day of said conviction or from the date said conviction is finally sustained, as may be determined by the Director, if an appeal is taken from said conviction, not extending beyond the then present benefit year of such claimant. (d) Any person who, by reason of the non-disclosure or misrepresentation by him or by another of a material fact (irrespective of whether such non-disclosure was known or fraudulent), has received any sum as benefits under this Act while any conditions for the receipt of benefits imposed by this Act were not fulfilled in his case, or while he was disqualified from receiving benefits, shall be liable to have such sum deducted from any future benefits payable to him under this Act. (e) Any violation of any provision of this Act, for which a penalty is neither prescribed above nor provided by any other applicable statute, shall be punished by a fine of not less than twenty nor more than fifty dollars, or by imprisonment for not longer than thirty days, or by both such fine and imprisonment.

Section 14. That Section 16 of the Act, the title of which appears in the caption hereof, be amended to read as follows: Section 16. UNEMPLOYMENT COMPENSATION ADMINISTRATION FUND. Special Fund. There is hereby created in the State Treasury a special fund to be known as the unemployment

compensation administration fund. All moneys which are deposited or paid into this fund are hereby appropriated and made available to the Director. All moneys in this fund shall be expended solely for the purpose of defraying the cost of the administration of this Act, and for no other purpose whatsoever. The fund shall consist of all moneys appropriated by this State, and all moneys received from the United States of America, or any agency thereof, including the Social Security Board, the Railroad Retirement Board, or from any other source, for such purpose. All moneys in this fund shall be deposited, administered, and disbursed, in the same manner and under the same conditions and requirements as is provided by law for other special funds in the State Treasury. Any balances in this fund shall not lapse at any time, but shall be continuously available to the Director for expenditure consistent with this Act. The State Treasurer shall give a separate and additional bond conditioned upon the faithful performance of his duties in connection with the unemployment compensation administration fund in an amount to be fixed by the Director and in a form prescribed by law or approved by the attorney general. The premiums for such bond of the State Treasurer and the premiums for the bond given by the treasurer of the unemployment compensation fund under Section 3 (b) of this Act shall be paid from the moneys in the unemployment compensation administration fund.

Section 15. That Section 17 of the Act, the title of which appears in the caption hereof, be amended to read as follows: Section 17. APPROPRIATIONS. All moneys in the Unemployment Administration Fund, or appropriated by the State or granted by the Federal Government in accordance with the provisions of the Wagner Peyser Act at any time are hereby appropriated to the Director for the administration of this Act.

Section 16. That Section 18 of the Act, the title of which appears in the caption hereof, be amended to read as follows: Section 18. (a) The Legislature reserves the right to amend or repeal all or any part of this Act at any time; and there shall be no vested private right of any kind against such amendment or repeal. All the rights, privileges, or immunities conferred by this Act or by acts done pursuant thereto shall exist subject to the power of the Legislature to amend or repeal this Act at any time. (b) If at any time the Governor shall find (1) that the provisions of this Act requiring the payment of contributions and benefits have been held invalid under the Constitution of this state by the Supreme Court of this state or under the United States Constitution by the Supreme Court of the United States in such manner that any person or concern required to pay contributions under this Act might secure a similar decision; or (2) that the tax imposed by Title IX of the Social Security Act, as amended, or any other federal tax

against which contributions under this Act may be credited has been amended or repealed by Congress or has been held unconstitutional by the Supreme Court of the United States, with the result that no portion of the contributions required by this Act may be credited against such federal tax; the Governor shall publicly so proclaim and upon the date of such proclamation the provisions of this Act requiring the payment of contributions and benefits shall be suspended. The Director (and for the purposes of this section, the Director shall remain or become the agency for carrying out the provisions hereof) shall thereupon forthwith requisition from the Unemployment Trust Fund all moneys therein standing to its credit and shall direct the State Treasurer to deposit such moneys, together with any other moneys in the fund, as a special fund in any banks or public depositories in this state in which general funds of the state may be deposited. The Director shall thereupon forthwith and within sixty days after receipt of such moneys, refund, without interest and in accordance with regulations prescribed by him to each person or concern by whom contributions have been paid, his pro rata share of the total contributions paid under this Act; after the expiration of said sixty days, the duties herein imposed upon said Director shall cease and determine and all powers herein conferred and duties herein imposed not then executed shall be conferred upon and executed by the Treasurer. Any interest or earnings of the fund shall be available to the Director to pay for the costs of making such refunds. When the Director shall have executed the duties herein prescribed and performed such other acts as are incidental to the termination of his duties under this Act, the Governor shall by proclamation declare that the provisions of this Act shall cease to be operative. (c) If any provision of this Act, or the application thereof to any person or circumstances is held invalid, the remainder of this Act and the application of such provision to other persons or circumstances shall not be affected thereby.

Section 17. That Section 19 of the Act, the title of which appears in the caption hereof, be amended to read as follows. Section 19. **REPEAL.** All laws and parts of laws in conflict with any provision or provisions of this Act are, to the extent of such conflict, hereby repealed.

Section 18. That Section 20 of the Act, the title of which appears in the caption hereof, be amended to read as follows: Section 20. **EFFECTIVE DATE.** Section 12 of this Act shall become effective upon approval of this Act by the Governor. All other sections shall become effective on the day preceding the first day of the first calendar quarter immediately following the approval of this Act by the Governor.

Approved September 21, 1939.

NOTE:

This is not a part of Senate Bill 440 but is simply a notation for the benefit of those interested in it.

The "table" in Subsection 5 (c) in Section 4 as introduced in an amendment to this Subsection was in tabulated form. The clerk in the enrolling department copied the table straight across instead of putting in tabulated form, and we have no option in the matter but must copy it as same appears in the enrolled copy.

The table as shown in original amendment and also shown on Senate Journal is as follows:

Column A	Column B	Column C
Wages earned in highest quarter of base period	Weekly Benefit Amount	Qualifying Wages in base period
Under — 39.00	None	None
\$39.01 — 65.00	\$2.00	\$60.00
65.01 — 91.00	3.00	90.00
91.01 — 117.00	4.00	120.00
117.01 — 143.00	5.00	150.00
143.01 — 169.00	6.00	180.00
169.01 — 195.00	7.00	210.00
195.01 — 221.00	8.00	240.00
221.01 — 247.00	9.00	270.00
247.01 — 273.00	10.00	300.00
273.01 — 299.00	11.00	330.00
299.01 — 325.00	12.00	360.00
325.01 — 351.00	13.00	390.00
351.01 — 377.00	14.00	420.00
377.01 and over	15.00	450.00

SECRETARY OF STATE'S OFFICE
By Mrs. A. C. Rankin

No. 498)

(S. 457—Tucker

AN ACT

To provide an additional and alternative authority for the consolidation of the administration and control of the public school systems in any county of more than 55,000 population according to the last or any succeeding Federal census; to provide an additional and alternative authority for establishing a board of education in lieu of all other county and city boards of education in such counties to serve until the election of a county board of education, and to provide for the manner of the selection of a county board of education in such consolidated school systems, and to define its authority and duties.

Be it Enacted by the Legislature of Alabama:

Section 1. That in addition to all other authority now granted by law for the consolidation of the administration of city school systems with county school systems, there is hereby granted the following additional and alternative authority for the consolidation of the administration and control of the public school systems in any county of more than 55,000 population according to the last or any succeeding Federal census: (a) Whenever such county board of education and the city board or boards of education in such county shall deem it advisable to consolidate the administration of their respective systems under a county board of education and shall reach an agreement to that effect through resolution adopted by and recorded in the minutes of each board, and approved by and recorded in the minutes of the governing body of the county and the governing body of any city or cities affected, which agreement shall provide for the payment of their respective indebtedness, said consolidation shall be made to become effective at the time designated in the resolutions providing for such consolidation. (b) Upon the effective date of said consolidation, the membership of the county board of education shall consist of the combined membership of the existing county board of education and the existing city board or boards of education so consolidated and said combined board shall have all the authority and duties now granted by the General Laws of the State to county boards of education, and said members shall continue in office until their successors are elected and qualified as hereinafter provided. (c) At the first general election next succeeding such consolidation, a county board of education composed of seven members shall be elected by the qualified electors of said county, and the public schools in said systems so consolidated shall be administered and controlled by said board of education, which board shall have all the authority and duties now granted by the General Laws of the State to county and city boards of education, and which board shall be in lieu of all other county and city boards of education so consolidated in such county. At said election, three members of said board shall be elected for

terms of two years, three members for terms of four years, and one member for a term of six years, and the official ballot shall list the positions as follows: Members Nos. 1 and 3, inclusive, for terms of two years. Members Nos. 4 to 6, inclusive, for terms of four years, and Member No. 7 for a term of six years. On the expiration of the terms of said members, their successors shall be elected for terms of six years. Said election shall be conducted in the same manner as provided by law for the election of members of a county board of education. Vacancies in office shall be filled in the manner provided by law for the filling of a vacancy in the office of a member of the county board of education. d. The consolidation of boards of education as provided in this act shall not operate to relieve any board of education of liability for obligations previously incurred, or to impair rights existing prior to such consolidation. All rights, privileges, authority, and powers now vested by general law in any county board of education or any city board of education within any such county be and the same are hereby conferred upon and vested in the board of education created by this act, and such board shall have full authority to make a single coordinated system of all the city and county public schools in any such county, but no contracts, obligations, or employment entered into by the existing boards prior to the passage of this act shall be in any way affected by their consolidation. Such board of education shall be vested with the titles to all property, real and personal, of every description previously owned by said board or boards of education, provided that said county board of education shall not have the authority to sell or otherwise dispose of any property within the limits of cities included in such consolidation without securing the written consent of the governing body of such city or cities and provided further that said county board of education shall not have the authority to sell or otherwise dispose of any property, the title to which was previously vested in the county board of education, without the written consent of the county governing body of said county.

Section 4. If within thirty days after the adoption of said resolutions, twenty-five per cent of the qualified electors of the territory covered by either of the school systems concerned shall submit a protest in writing, the consolidation procedure shall be as follows: a. **REQUEST FOR REFERENDUM.**—The boards concerned shall adopt resolutions asking for a referendum on the proposed consolidation; whereupon the chairman of each board shall certify to the Judge of Probate a copy of the agreement of the resolution adopted by his board. b. **ORDER OF ELECTION.**—Upon receipt by the Judge of Probate of certified copies of the agreement and resolutions, adopted as provided herein, he shall forthwith present them to the court of county commissioners or

other governing body, which shall order elections to be held simultaneously in the territories concerned and at the time requested by said boards, to determine whether or not the school system of the county and the school system or systems of the city or cities shall be administered by the county board of education. c. NOTICE OF ELECTION.—At least thirty days before the elections are held, the Sheriff shall give notice of the time and purpose of the elections by publication in some newspaper in the county, if any is published therein, and if not, by writing posted at the Court house and at three other public places in each school system concerned. d. APPOINTMENT, COMPENSATION, AND DUTIES OF ELECTION OFFICERS.—The officers of the elections shall be appointed, the elections shall be held, and the results shall be declared as in regular elections for county or city officers; provided, that the elections may be held at the time of any regular election and, in that event, the officers of the general election shall serve without extra compensation. If the elections are held at a time other than that fixed for a regular election, the officers shall receive the same pay as for a general election. e. BALLOTS FOR ELECTION.—The ballots shall have printed at the top a statement of the purpose of the elections and directly underneath, in plain type and on different lines, the words, "For Consolidation", "Against Consolidation". The voter favoring the proposed consolidation will make a cross mark directly to the left of the words "For Consolidation", and the voter not in favor of the proposed consolidation will make a cross mark directly to the left of the words "Against Consolidation". f. WHO MAY VOTE; RESULT OF ELECTION.—All qualified electors residing in the territories concerned shall have the right to vote and, if a majority of the qualified electors voting in the combined territories concerned shall vote in favor of the consolidation, the city board or boards of education shall stand abolished, and thereafter the schools of the county and the schools of the city or cities involved shall be administered by the county board of education as herein provided.

Section 3. The authority granted in this act for the consolidation of the administration and control of the public school systems in any county of more than 55,000 population according to the last or any succeeding Federal census is an additional and alternative authority to all other authority now granted by law for the consolidation of the administration and control of the public school systems in a county.

Section 4. If any part of this act shall be found unconstitutional, the rest shall stand.

Approved September 21, 1939.

No. 499)

(S. 468—Simpson—Brown (Covington))

AN ACT

To provide for tenure of employment of teachers in the public schools.

Be it Enacted by the Legislature of Alabama:

Section 1. The term teacher as employed in this Act is deemed to mean and include all persons regularly certificated by the teacher certificating authority of the State of Alabama who may be employed as instructors, principals or supervisors in the public elementary and high schools of the State of Alabama.

Section 2: Any teacher in the public schools, who shall meet the following requirements, shall attain continuing service status: (a) Such teacher shall have served under contract as a teacher in the same county or city school system for three consecutive years and shall thereafter be re-employed in such county or city school system. (b) Such continuing service status can be conferred only by the re-employment of such teacher for the school year beginning in the fall of 1940, or for some subsequent school year.

Section 3: The contract of employment of any teacher who shall attain continuing service status shall remain in full force and effect unless superseded by a new contract signed by both parties, or cancelled as provided in Section 7 or Section 8 of this Act; provided that the legislature, or in the absence of legislation, the employing board of education may provide for the retirement of teachers at certain ages.

Section 4: The salary or compensation of any teacher on continuing service status may be changed for any succeeding year to accord with a general salary schedule adopted by the employing board of education; provided, however, that no salary schedule shall operate to compensate teachers in less sums than the sums contained in a minimum salary schedule, which may be adopted by the State Board of Education of Alabama for teachers in the public schools of the State.

Section 5: Any teacher on continuing service status, upon the recommendation of the superintendent, may be transferred for any succeeding year from one position, school, or grade to another without loss of status or violation of contract.

Section 6: (a) Cancellation of an employment contract with a teacher on continuing service status may be made for incompetency, insubordination, neglect of duty, immorality, justifiable decrease in the number of teaching positions, or other good and just cause; but cancellation may not be made for political or personal reasons.

Section 7: An employment contract with a teacher on continuing service status may be cancelled only in the following manner: (a) Not less than thirty, nor more than forty days before

the consideration by the employing board of education, of the cancellation of any such contract, such teacher shall be notified in writing of the exact date, time when, and place where such consideration is to take place; and such teacher shall be furnished with a written statement of the reasons for such consideration within five days after any written request for such statement, provided, however, that if, in the unanimous opinion of the superintendent and of the members of the employing board, the cause of cancellation of any such contract justifies, a teacher may be suspended immediately; provided, further, that such suspension in no case shall serve to deprive the teacher of the right of hearing as hereinafter provided. (b) Any teacher shall, upon written request for hearing, filed within fifteen days after the receipt by said teacher of notice of date, time and place of a proposed consideration for cancelling contract, be given a hearing before the employing board of education; such hearing shall be held not less than seven days, nor more than ten days, after such request is filed and such teacher shall be given not less than five days notice of the time and place of such hearing. (c) Such teacher, at the hearing, shall have a right to a full statement of the reasons for the proposed cancellation of such contract, and shall have a right to appear with or without counsel, and shall have a right to be heard and to present the testimony of witnesses and other evidence bearing upon the reasons for the proposed cancellation of such contract. (d) No contract with a teacher shall be cancelled until the time set for consideration of the cancellation of such contract; nor until after a hearing is held, if such a hearing is requested by said teacher; nor until the employing board of education has by a vote of a majority of its members, evidenced by the minute proceedings of the board, ordered the cancellation of such contract after full compliance with the provisions of this section.

Section 8: The action of the employing board of education, if made in compliance with the provisions of this Act, and unless arbitrarily unjust, shall be final and conclusive. Whether such action complies with the provisions of this Act, and whether such action is arbitrarily unjust, may be reviewed by bill in equity for the specific performance of such contract, filed in the county where said school system is located. No action at law shall lie for the recovery of damages for the breach of any employment contract of a teacher in the public schools.

Section 9: No teacher, whether in continuing service status or not, shall be permitted to cancel his, or her, contract during the school term for which said contract is in effect, nor for a period of thirty days previous to the beginning of such school term, unless such cancellation is mutually agreed upon; any such teacher shall be permitted to cancel his, or her, contract at any other time by

giving five days' written notice to the employing board of education. Any teacher cancelling his, or her, contract in any other manner than in this section provided shall be deemed guilty of unprofessional conduct and the state superintendent of education is hereby authorized to revoke or suspend the certificate of such teacher.

Section 10: Any teacher in the public schools, whether in continuing service status or not, shall be deemed reemployed for the succeeding school year at the same salary, unless the employing board of education shall cause notice in writing to be given said teacher on or before the last day of the term of the school in which the teacher is employed; provided, however, that in no case shall such notice be given the teacher later than the first day of May of the termination of such employment, and such teacher shall be presumed to have accepted such employment unless he or she shall notify the employing board of education in writing to the contrary on or before the first day of June.

Section 11: Leaves of absence for good cause may be granted to teachers by the employing board of education without the impairment of the tenure status of a teacher as provided for by this Act; provided, further, that leaves of absence for advanced training, at the discretion of the employing board of education, may be counted as equivalent of teaching experience; provided, however, that no one leave of absence shall be for a period longer than one year.

Section 12: Should the court declare any section or provision of this Act unconstitutional or unauthorized by law, or invalid for any reason, then such decision shall effect only the section or provision so declared to be unconstitutional or void, and shall not affect any other section or part of this Act.

Approved September 21, 1939.

No. 500)

(S. 497—Young.

AN ACT

To authorize and require the State Board of Education to abolish and discontinue the Daphne Normal School at Daphne, Baldwin County, Alabama, and to provide for the disposition of the appropriation for such institution.

Be it Enacted by the Legislature of Alabama:

Section 1. That the State Board of Education of the State of Alabama is hereby authorized and required, at any time during the fiscal year 1939-1940, and not later than September 30, 1940, to abolish and discontinue the Daphne Normal School at Daphne, Baldwin County, Alabama. Upon the effective date of such abo-

lition and discontinuance, the unexpended balance of the appropriation made to the State Board of Education for said institution for the fiscal year ending September 30, 1940, shall be made available to the County Board of Education of Baldwin County, to be used as directed by the State Board of Education.

Section 2. All laws and parts of laws, general, special, or local, in conflict with the provisions of this act are hereby specifically repealed.

Section 3. This act shall go into effect upon its passage and approval by the Governor.

Approved September 21, 1939.

No. 503)

(S. J. R. 129—Calhoun

SENATE JOINT RESOLUTION

Designating Senate Bills Nos. 204 and 294.

BE IT RESOLVED BY THE SENATE, The House concurring, that Senate Bills Nos. 204 and 294 be known and designated as the Calhoun-Hardwick Bills.

Approved September 19, 1939.

No. 504)

(S. J. R. 131—Simpson

SENATE JOINT RESOLUTION

Designating House Bill No. 125.

BE IT RESOLVED BY THE SENATE, The House concurring, that the Local option Stock Law, being House Bill No. 125, be known and designated as "The Walden-Norman Law".

Approved September 19, 1939.

No. 505)

(H. 397—Snyder

AN ACT

Relating to the establishment and administration of Retirement Systems in Counties having a population of Three Hundred Thousand or more, and for the payment of Benefits to the Employees of such Counties; and to make such other provisions to carry out the Functions of this Act.

Be it Enacted by the Legislature of Alabama:

Section I: RETIREMENT SYSTEM IN POPULOUS COUNTIES: Definitions: In each County having a population of three hundred thousand or more according to the last or any subsequent Federal census, a retirement system shall be established

and maintained for the benefit of employees of such county. The funds of the retirement system shall be derived, administered and disbursed in accordance with this Act. Except where the context plainly requires a different meaning, the following words and phrases shall have the following meanings: (a) "Retirement System" shall mean the employees' retirement system of the county establishing such system. (b) "Board" shall mean the Pension Board provided for in Section V of this Act to administer the retirement system. (c) "County" shall mean the county establishing the retirement system. (d) "Employee" shall mean any person regularly employed by the county at a monthly wage or salary payable at stated intervals, but shall not include any person in the county service elected by the vote of the people, and no person shall be included in said term who is not subject to any Civil Service or Merit System law from time to time governing the employees of such counties. In the event of a question arising as to the right of any person in the service of the County to be classified as an employee under this Act, the decision of the Board shall be final. (e) "Member" shall mean any person included in the membership of the retirement system as provided in Section III of this Act. (f) "Service" shall mean service as an employee during which time he shall have made contributions hereunder and same shall have been matched by the county. (g) "Beneficiary" shall mean any person in receipt of a retirement allowance or benefit as provided by this Act. (h) The masculine pronoun shall include the feminine and the neuter shall include both masculine and feminine.

Section II: DATE OF ESTABLISHMENT: The date of establishment of the retirement system of any county having a population of three hundred thousand or more according to the last Federal census shall be January 1st, 1940, and the date of establishment of the retirement system of any county not having such population on said date shall be the January first after such county attains such population. The retirement system of any county shall have the powers and privileges of a corporation, and shall be known as the "EMPLOYEE'S RETIREMENT SYSTEM" of the county in which established, and by such name it may sue and be sued, and all of its business shall be transacted, all its funds invested, and all of its cash and securities and other property held in trust for the purpose for which received.

Section III: (a) "PRESENT EMPLOYEES": Election: Any person who is an employee on the date of establishment of the retirement system shall, except as hereinafter provided, be eligible for membership and shall become a member as of such date unless, within a period of thirty days thereafter he files with the Board on a blank provided by the Board for that purpose, an

election not to become a member and a waiver of all present and prospective benefits which would otherwise inure to him by his participation in the system. (b) "FUTURE EMPLOYEES": Any person who becomes an employee after the date of establishment of the retirement system shall become a member as a condition of his employment. Such employee will not be required to participate during the first twelve months of his employment. An employee's membership shall date from the month in which he first makes membership contribution. (c) "OTHER EMPLOYEES": Any employee whose membership in the retirement system is contingent on his own election and who elects not to participate may later become a member, provided he passes such medical examination as the board may require. (d) "REPORT OF COUNTY OFFICIALS": It shall be the duty of the County Personnel Board, or if there be none the head of each agency of the county government employing persons who are members or are entitled to become members to submit to the Board such statements as the Board shall require of the name, title, compensation, duties, date of birth, and length of service of each such person employed by such agency.

Section IV: (a) "SERVICE CREDIT": The Board shall fix and determine by appropriate rules and regulations how much service in any year is equivalent to one year of service, but in no case shall more than one year of service be creditable for all service in one calendar year, nor shall the Board allow credit as service for any period of more than one month's duration during which the employee was absent without pay. (b) "EFFECT OF RETIREMENT": Upon the retirement of an employee, his total creditable service shall include all membership service since he became a member during which time he paid his contributions and for which he has not accepted a refund.

Section V: "ADMINISTRATION". (a) "PENSION BOARD": The general administration and responsibility for the proper operation of the retirement system and for making effective the provisions of this Act are hereby vested in a Pension Board which shall be organized immediately upon the passage of this Act in every county coming under its provisions. (b) "MEMBERSHIP": The membership of the Board shall consist of three members designated respectively as Member Number One, Member Number Two and Member Number Three. (1) MEMBER NUMBER ONE: A person to be appointed by the Probate Judge of such County who shall have had more than ten years experience in an executive capacity in insurance or actuarial work and who shall be chairman of the board and who shall serve for a term of three years. (2) MEMBER NUMBER TWO: To be appointed by the County Commission or governing body of such County

who shall be a person who shall have had at least ten years experience in an executive capacity in investment or banking business. The initial term of Member Number Two shall expire at the end of two years. Following the completion of the initial term, the term of Member Number Two shall be for three years. (3) MEMBER NUMBER THREE: The first Member Number Three shall be appointed by the Governor and shall serve for a period of one year. Following the completion of the initial term, Member Number Three shall be elected at the annual meeting of the members of the retirement system, and such election in every instance shall be by secret ballot and under the supervision of three members of said system acting as an election board. (c) "VACANCY—HOW FILLED": If a vacancy occurs in the office of a board member, such vacancy shall be filled for the unexpired term in the same manner as the office was previously filled. (d) "QUORUM; VOTING": Two members of said Board shall constitute a quorum for the transaction of all business. Each member shall be entitled to one vote on each question and two votes shall be necessary for a decision by the Board. (e) "RULES AND REGULATIONS": Subject to the limitations of this Act, the Board shall from time to time, establish rules and regulations for the administration of the funds created by this Act and for the transaction of its business. (f) "SECRETARY AND BOARD MEMBERS EXPENSE": The secretary of the Board shall be the director of personnel of such county or a person in his office designated by him; if there be no Director of Personnel in such county, the secretary shall be appointed by the Board and shall be an employee of such county and both he and the members of the Board shall serve without pay. Members of the Board and its secretary shall be reimbursed for expenses actually paid or incurred in the discharge of their official duties and shall suffer no loss of salary or wages through service on said Board or as secretary thereof. (g) "REPORTS:" The Board shall cause a record of all its proceedings to be kept by its secretary which shall be open to public inspection. It shall publish an annual report showing the fiscal transactions of the retirement system for the preceding year, the amount of the accumulated cash and a description of the securities of the system, and the latest balance sheet showing the assets and liabilities of the retirement system. The Board shall cause an audit to be made of its affairs by a certified public accountant at least once each year and such auditor's report shall be published with the Board's annual report. (h) "LEGAL ADVISOR": The County Attorney shall be the legal advisor of the Board. (i) "MEDICAL ADVISOR": The Board shall designate some physician not eligible to participate in the Retirement System as its medical advisor. If required, other physicians may be

employed to report on special cases. The Medical Advisor shall arrange for and pass upon all medical examinations required by the Retirement System, shall investigate all essential statements and certificates by or in behalf of a member in connection with an application for disability retirement, and shall report in writing to the Board his conclusions and recommendations upon all matters referred to him. He shall receive such compensation for his services as the Board shall approve. (j) "PERIODIC VALUATIONS": As soon as possible after the establishment of the retirement system and at least once in each three year period thereafter, the Board shall cause an actuarial investigation and analysis to be made of the assets and liabilities of the Retirement System, and the Board shall require said actuary taking into account the results of said investigation and analysis to certify whether or not the rates of benefits established payable herein or from time to time established by the Board are actuarially feasible and adequate in view of the funds available, and if he finds said benefits are not feasible or adequate, he shall certify what benefits he finds are actuarially feasible and adequate, and the Board shall thereupon conform the benefits herein provided to said report by horizontally raising or lowering the Schedule of such benefits so that said fund shall be kept solvent. (k) "ANNUAL MEETING": The members of the Retirement System shall meet at least once each year at such time and place as the Board shall by its rules and regulations determine. Written notice of this meeting shall be given by personally delivering or mailing a copy to the members' place of work or last known place of abode. (1) "OATH OF OFFICE": Each member of the Board and the secretary and treasurer shall before taking his office, take the oath of office required of county officers.

Section VI. "TREASURER OF FUNDS": The county treasurer, or officer of the county whose duties are those of treasurer, or custodian of the county funds, shall be treasurer of the Retirement System and his general bond to the county shall cover all liability for his acts as treasurer of such funds. All monies of said Retirement System received by him shall be set aside by the treasurer in a separate fund. He shall pay out said funds only on warrants issued by the Pension Board and signed at least by two of its members and its secretary.

Section VII: "INVESTMENT OF FUNDS": The Pension Board shall invest the funds of the Retirement System not currently needed in bonds of the United States Government, or general obligations bonds of the State of Alabama, or of the County.

Section VIII: "METHOD OF FINANCING" (a) SALARY DEDUCTIONS: Every member of the Retirement System shall pay into the retirement fund two and one half (2½) per cent of

his monthly salary or wage, but if such wage or salary exceeds three hundred (\$300.00) dollars per month, then two and one ($2\frac{1}{2}$) per cent of the first three hundred (\$300.00) dollars thereof. The county governing body is hereby directed to cause such deduction to be made each payroll period from the salary or wage of each member of the Retirement System and to approve one voucher payable to the treasurer of the Retirement System for the aggregate amount so deducted from the salaries covered by said payroll. All such salary deductions shall be credited to the retirement fund herein created. (b) "COUNTY CONTRIBUTION": Each month an amount equivalent to that deducted from the employees' salary shall be contributed by the county and be paid into such fund by the county governing body out of the general fund of such county. At any time after the expiration of three years from the date of the establishment of a Retirement System the County Commission or county governing body may, upon recommendation of the Pension Board, increase such salary deductions from the members to an amount not to exceed five percent, and provide for an increase in county contributions to an amount equivalent to that deducted from the employees salaries. No such increase shall be voted by any county governing body within twelve months immediately prior to any primary election for the successors of the members of such governing body.

Section IX: "RETIREMENT FOR SUPERANNUATION:

(a) REQUIREMENTS: Whenever any member of the Retirement System has been in the employ of the county for a period of not less than five years and has attained the age of sixty (60) years he shall be eligible for retirement for superannuation, but such retirement shall not be compulsory. Such retirement shall be made upon written application of the member or of some one acting in his behalf and filed in the office of the Board not less than thirty nor more than sixty days from the time specified for his retirement. (b) "BENEFITS": Upon retirement such member shall receive a pension for the remainder of his life to be determined by the following formula: one seventieth (1-70) of his final average monthly compensation multiplied by his years of service as herein defined. The final average monthly compensation shall be deemed to be the average of the monthly compensation paid to the employee by the county during the last five years of service. No part of any monthly compensation in excess of Three Hundred (\$300.00) dollars shall be recognized in determining the final average monthly compensation.

Section X: "RETIREMENT FOR DISABILITY": Any member in active service for more than five consecutive years who shall become so disabled that in the opinion of the Board and the Medical Advisor he is incapacitated for further performance of

his duties, shall, during such disability receive disability retirement benefits to be determined by the following formula, such benefits to begin not less than sixty days after the beginning of such disability: for total disability, one seventieth (1-70) of the final average monthly compensation as herein defined multiplied by the years of his service. In cases of partial disability, the Board and Medical Advisor shall determine the percentage of disability suffered and the member shall be entitled to that proportion of the amount payable to him if totally disabled which his percentage of disability is of total disability.

Section XI: "MEMBERSHIP AFTER TERMINATION OF SERVICE": Withdrawal of Funds: Whenever any member of the Retirement System shall cease to be a county employee for any reason other than death or retirement for superannuation or disability, he shall be paid, upon application therefor the full amount of his contributions without interest. The amount contributed by the county to match the employee's contribution shall remain in the fund.

Section XII: "DEATH OF MEMBERS": Whenever a member of the Retirement System shall die without having received a pension, or without having received in pension payments an amount equal to the total amount of the accumulated deductions from his salary, the full amount of said accumulated deductions, without interest, less such pension payments, if any, as have been paid to such member, shall be paid in one lump sum to the beneficiary or beneficiaries designated by such member, or, if none, to the surviving spouse, or, if none, to the legal representative of such member.

Section XIII. "SUPERANNUATION—RETIREMENT RESTRICTIONS": No retirement on account of superannuation shall be granted until five years after the establishment of the Retirement System, nor to any member until he shall have paid into the retirement fund an amount equal to five years' deductions from his wage or salary.

Section XIV: "RE-EXAMINATION OF DISABLED MEMBERS": The Board may require any member retired for disability, if he has not attained retirement age as proved in Section IX, to submit to a medical examination by the Medical Advisor or any other physician appointed by the Board. Should any such member refuse to undergo such medical examination, his allowance may be discontinued until he consents to the examination. Should the medical advisor or physician conducting such examination report to the Board that such disability beneficiary is able to resume his usual occupation, such member shall be restored to his former position, if there then be such position in the service of the county, otherwise, he shall be placed upon the appropriate lay-off list of

the county if there be such and upon being so re-employed, he shall immediately resume monthly payroll contributions.

Section XV: "DONATIONS, ETC.": The retirement board is hereby authorized and empowered to credit to the fund any moneys received in the form of donations, gifts, appropriations, bequests or otherwise, or derived therefrom, and every member of said Retirement System who shall fail to make application for the amount of his accumulated deductions within five years after his separation from the service of the county shall be deemed to have donated the same to the fund.

Section XVI: "EMPLOYMENT OF PENSIONED MEMBERS": Whenever any member of the Retirement System accepts employment in any other branch of public service his benefits under the provisions of this Act shall be reduced by the amount so received as compensation as a result of such employment.

Section XVII: "FUNDS EXEMPT": No pension or other benefit shall be assignable or be subject to execution, levy, attachment, garnishment or other legal process nor shall they be subject to any State income tax.

Section XVIII: "VALIDITY OF ACT": If any provision of this Act shall be held unconstitutional such unconstitutionality thereof shall *not* affect the validity of the remaining parts of this Act.

Section XIX: "EXPENSES": All payments of benefits, costs of administration and other expenses arising hereunder shall be paid out of the fund created hereunder and not otherwise.

Section XX: No provision hereof shall be construed to bestow upon any member or any other person any vested right to benefits, return of contributions or any other valuable interests hereunder. No implied contract for benefits shall be held to arise hereunder, either before or after retirement. Any provisions hereof may be changed by subsequent legislation without regard to accrued rights.

Section XXI: In counties having a personnel director, all records of compensation and service of the members and clerical work of keeping the records and making the disbursements hereunder shall be kept and done by such director.

Approved September 22, 1939.

No. 506)

(H. 681—Jones

AN ACT

To provide for the Director of Industrial Relations acting as Chief of the Division of Unemployment Compensation and Employment Service within the Department of Industrial Relations and to repeal all conflicting laws.

Be it Enacted by the Legislature of Alabama:

Section 1. The Director of Industrial Relations shall act as Chief and be in immediate charge, supervision and control of the division of the Department of Industrial Relations charged with the duties arising under the Unemployment Compensation Law and the State Employment Service, thereby coordinating the functions of these two units of the Department of Industrial Relations. The Director of Industrial Relations in assuming these additional duties shall receive no remuneration for such services other than that amount specified as his salary in Section 3 of the Industrial Relations Act of 1939.

Section 2. The provisions of this act shall be effective, any of the provisions of the Industrial Relations Act of 1939 to the contrary notwithstanding, and all laws and parts of laws in conflict with the provisions of this act be and the same are hereby expressly repealed.

Section 3. This act shall take effect immediately upon its approval by the Governor.

Approved September 21, 1939.

No. 507)

(H. 710—Martin

AN ACT

To further regulate and define the functions, duties and powers of the Commissioner of Agriculture and Industries in relation to the industrial section of the Department of Agriculture and Industries, to repeal Article 42, Sections 600-609, inclusive, of the Agricultural Code of Alabama, and all laws and parts of laws, general, special and local, in conflict herewith.

Be it Enacted by the Legislature of Alabama:

Section 1. That from and after the passage of this Act, all of the functions, duties and powers of the industrial section of the Department of Agriculture and Industries are placed upon and vested in and shall be exercised by the Commissioner of Agriculture and Industries under the supervision of the State Board of Agriculture and Industries.

Section 2. That the functions, duties and powers of the industrial section of the Department of Agriculture and Industries, which are hereby placed upon, vested in and to be exercised by the Commissioner of Agriculture and Industries under the supervision of the State Board of Agriculture and Industries are as follows: (1) To investigate and ascertain the industrial possibilities of the State of Alabama and to seek to secure the development of the same. (2) To collect statistics in regard to industrial development in the State of Alabama. (3) To make investigations as to any

matter relative to industrial development and possibilities. (4) To cooperate in the fostering and development of the industrial interests of the State. (5) To cooperate especially in the promotion, establishment and location of industries in the smaller municipalities and rural communities of the State which use as a raw material farm products of any character. (6) To cooperate with the State Chamber of Commerce, local Chambers of Commerce and all local industrial boards to promote the purposes of this Act. (7) To organize and control the industrial section of the Department of Agriculture and Industries for the purpose of carrying out the provisions of this Act. (8) To employ such clerical assistants, agents or representatives and to secure such expert advice or assistance as may be necessary for carrying out the purposes of this Act. In the discharge of the functions, duties and powers placed upon, vested in and to be exercised by him in accordance with the provisions of this Act, the Commissioner of Agriculture and Industries shall have the right to call on all State departments, institutions, agencies, bureaus, boards or commissions for assistance, reports, advice and information and it shall be the duty of such departments, institutions, agencies, bureaus, boards or commissions to comply with such request. Anything in this Act to the contrary notwithstanding, all officers and employees of the Department of Agriculture and Industries who would otherwise be subject to the provisions thereof, shall be subject to the provisions of the Merit System Act, approved March 2, 1939.

Section 3. For the performance of the extra, new and additional duties imposed upon the Commissioner of Agriculture and Industries by this Act, he shall receive an additional Twelve Hundred Dollars (\$1200.00) per annum as compensation, said Twelve Hundred Dollars (\$1200.00) per annum to be paid as the salaries of other State officers are paid and from the fund or funds from which the salary of the Commissioner of Agriculture and Industries is paid.

Section 4. That Article 42, Sections 600- 609, inclusive, of the Agricultural Code of Alabama and all laws and parts of laws, general, special and local, in conflict herewith be and the same are hereby expressly repealed.

Section 5. That this Act shall become effective upon its passage and approval by the Governor or its otherwise becoming a law.

Approved September 16, 1939.

AN ACT

To amend the Title and Sections 5 and 6 of the Act of the Legislature approved August 23, 1935, and entitled "An Act To create an Armory Commission for the State of Alabama and to authorize the persons named therein to form and organize a corporation to be known as the "Armory Commission of Alabama"; to specify and define its authority and duties; to authorize said Commission when incorporated to construct and maintain armories, drill and training areas for the National Guard and Naval Militia and their various units; to authorize municipalities, counties, the State and others to co-operate in and about the construction of armories, the providing of drill and training areas and to assist in paying therefor; to authorize municipalities and counties to convey to The Armory Commission of Alabama lands owned by them on which to construct such armories, whether such lands already be used for parks or other purposes; to authorize The Armory Commission of Alabama to finance, or refinance armory buildings that have already been constructed, to finance the improvement of such armories, and to authorize The Armory Commission of Alabama to finance the construction of other or further or additional armories; and to authorize the Governor of Alabama, in his discretion, to use a part of any appropriation made for military purposes for the purpose of paying any deficit of principal or interest under any plan of financing or refinancing, adopted by The Armory Commission of Alabama for the financing, or refinancing, of armories already in existence, the construction of improvements to or additions to, such armories already in existence and the construction of new and additional armories."

Be it Enacted by the Legislature of Alabama:

Section 1. That the title of the Act of the Legislature approved August 23, 1935, and entitled "An Act To create an Armory Commission for the State of Alabama and to authorize the persons named therein to form and organize a corporation to be known as the "Armory Commission of Alabama"; to specify and define its authority and duties; to authorize said Commission when incorporated to construct and maintain armories, drill and training areas for the National Guard and Naval Militia and their various units; to authorize municipalities, counties, the State and others to co-operate in and about the construction of armories, the providing of drill and training areas and to assist in paying therefor; to authorize municipalities and counties to convey to The Armory Commission of Alabama lands owned by them on which to construct such armories, whether such lands already be used for parks or other purposes; to authorize The Armory Commission of Alabama to finance, or refinance armory buildings that have already been constructed, to finance the improvement of such armories, and to authorize The Armory Commission of Alabama to finance the construction of other or further or additional armories; and to authorize the Governor of Alabama, in his discretion, to use a part of any appropriation made for military purposes for

the purpose of paying any deficit of principal or interest under any plan of financing or refinancing, adopted by The Armory Commission of Alabama for the financing, or refinancing, of armories already in existence, the construction of, improvements to or additions to, such armories already in existence and the construction of new and additional armories." be and the same is hereby amended so as to read as follows: "An act to create and provide for the membership of an Armory Commission for the State of Alabama to be known as the "Armory Commission of Alabama"; to specify the duties and authority of said Armory Commission; to authorize counties and municipalities to convey to said Armory Commission lands owned by them, including parks, on which to construct armories; to specify the manner in which said Armory Commission shall finance projects undertaken under authority of this Act; and to authorize the Governor to use, in his discretion, any part of any appropriation made for any military purposes for the purpose of paying any part or all of any expense or obligations incurred by said Armory Commission in carrying out its duties under this Act."

Section 2. That Section 5 of the Act of August 23, 1935, referred to in Section 1 of this Act, be and the same hereby is amended so as to read as follows: "Section 5. *Payments From Military Funds*: The Governor of Alabama is hereby authorized to use, in his discretion, any part of any appropriation heretofore or hereafter made for any military purposes or for the benefit of the State Militia or any part thereof, for the purpose of paying any part or all of any expenses or obligations incurred by the Armory Commission of Alabama after August 23, 1935, in carrying out its duties under this Act."

Section 3. That Section 6 of the Act of August 23, 1935, referred to in Section 1 of this Act, be and the same hereby is amended so as to read as follows: "Section 6. *Providing Armories, Grounds, and Other Facilities*: The Armory Commission of Alabama shall provide adequate armories, buildings, equipment, furniture, target ranges, and other necessary facilities for the proper housing, instruction, training and administration of all units and headquarters of the National Guard and Naval Militia of Alabama; shall provide for the State Military Department like facilities needed for the proper protection, care, maintenance, repair, issue, and upkeep of public property of the State of Alabama and of the United States issued to or for the use of the National Guard or Naval Militia of Alabama, and for the proper and efficient administration of the Alabama National Guard and Naval Militia; and shall provide for the maintenance, upkeep, repair, and improvement of such facilities."

Section 4. Any law or part of any law enacted prior to the

date of the approval of this Act which is inconsistent with any of the provisions of this Act is hereby expressly repealed.

Section 5. If any section, paragraph, clause, or separate provision of this Act shall be held to be invalid, such fact shall not affect or render invalid any other section, paragraph, clause, or separate provision of this Act, it being the intention of the Legislature in enacting this Act to enact each section, paragraph, clause and provision separately.

Section 6. This Act shall become effective immediately upon its approval.

Approved September 21, 1939.

No. 509)

(H. 773—Quarles.

AN ACT

To amend Sections 1, 2, 3, 11, 12, 16, 23, 30, 42, 43, 44, 51, 55, 65, 68, 69, 71, 75, 77, 90, 91, 93, 95, 97, 103, 118, 143, and 187 of the Military Code of Alabama as contained in the Act of the Legislature approved April 22, 1936, and entitled "An Act to revise, collate and codify into one Act the general statutes of the State of Alabama relating to the Militia, which Act shall constitute and be designated and cited as the Military Code of Alabama; to regulate and provide for the Military and Naval Forces of the State and promote the efficiency of these forces; to provide rules, regulations and means for their organization, armament, equipment, discipline, control and supervision; to provide for their maintenance, support and upkeep; to provide for their allocation, organization and equipment, discipline, training, and maintain these forces for State and National Emergencies in compliance with the provisions of the National Defense Act and Federal Laws governing the Naval Militia or Naval Reserves as now or as these acts may be hereafter amended; to provide a Department, to be designated and known as the Department of Military and Naval Affairs, for the purpose of administration of all provisions of this Act and the execution of all rules and regulations written under this Act; to provide means for the enforcement of this Act; to repeal all code sections and all acts and parts inconsistent with this Act; and to fix penalties and punishments for the violation of this Act."

Be it Enacted by the Legislature of Alabama:

Section 1. Section 1 of the Military Code of Alabama as contained in the Act of the Legislature approved April 22, 1936, and entitled "An Act to revise, collate and codify into one Act the general statutes of the State of Alabama relating to the Militia, which Act shall constitute and be designated and cited as the Military Code of Alabama; to regulate and provide for the Military and Naval Forces of the State and promote the efficiency of these forces; to provide rules, regulations and means for their organization, armament, equipment, discipline, control and supervision; to provide for their maintenance, support and upkeep; to provide for their allocation, organization and equipment, discipline, training, and maintain these forces for State and National Emergencies in

compliance with the provisions of the National Defense Act and Federal Laws governing the Naval Militia or Naval Reserves as now or as these acts may be hereafter amended; to provide a Department, to be designated and known as the Department of Military and Naval Affairs, for the purpose of administration of all provisions of this Act and the execution of all rules and regulations written under this Act; to provide means for the enforcement of this Act; to repeal all code sections and all acts and parts inconsistent with this Act; and to fix penalties and punishments for the violation of this Act." is hereby amended so as to read as follows:

"Section 1. DEFINITIONS. (a) The following definitions shall be used in construing, interpreting, enforcing, and applying the provisions of this Act or any provisions of any other Act affecting the State Militia, the State Military Department, or any parts thereof: (1) *National Defense Act*: An Act of Congress of the United States approved June 3, 1916, and entitled "An Act for Making Further and More Effectual Provisions for the National Defense and for Other Purposes", and any and all Acts of said Congress amendatory or supplementary thereto; (2) *Company*: A company, troop, battery, train, or other unit corresponding to a company of infantry; (3) *Battalion*: A battalion, squadron, or other unit corresponding to an infantry battalion; (4) *Unit*: A regiment, battalion, or company, or other military organizations corresponding thereto, including headquarters detachments and the State Detachment of enlisted men; (5) *Headquarters*: The commanding officer and his staff (if any) of a division, brigade, regiment, battalion, or squadron, or other units corresponding thereto, including the State Staff and the State Military Department, the State Military Department being defined and construed as the "headquarters" of the State Militia, Naval Militia, and National Guard."

Section 2. Section 2 of said Military Code of Alabama is hereby amended so as to read as follows: "Section 2. COMPOSITION OF MILITIA: The Militia of this State shall consist of all able-bodied, resident male citizens of this State, and all other able-bodied males resident in this State who have or shall have declared their intention to become citizens of the United States, who shall be more than eighteen years of age and, except as in this Act otherwise provided, not more than forty-five years of age. The Militia of this State shall be divided into the following classes: the National Guard of Alabama, the Naval Militia of Alabama, and the Unorganized Militia. The affairs of all classes of the Militia of this State shall be administered by a department of the State designated as the State Military Department, and the words "Department of Military and Naval Affairs" wherever used in this Act or any other act of the Legislature shall be taken to mean and include the words "State Military Department."

"Section 3. Section 3 of said Military Code of Alabama is here-

by amended so as to read as follows: "Section 3. COMPOSITION OF NATIONAL GUARD OF ALABAMA: The National Guard of Alabama shall consist of all commissioned officers and warrant officers holding commissions or warrants in the National Guard of Alabama, whether recognized by the Federal government or not, and of all regular enlisted members of the Militia of this State between the ages of eighteen and forty-five years, organized, armed, trained, and equipped as hereinafter provided; provided that the Adjutant General, with the approval of the Governor, shall determine to what extent, to what maximum age (but not beyond the age of sixty-four), and under what circumstances enlisted men of the active National Guard of Alabama may continue in service after passing the age of forty-five years and publish regulations covering the same for the information of all parties concerned, if they be of the opinion that it is to the best interests of the service to permit such continued enlisted service beyond the age of forty-five years. The National Guard of Alabama shall be divided into the following classes or components: (a) the active National Guard, composed of all Federally recognized active units and personnel of the National Guard of Alabama allotted, authorized, and organized under the National Defense Act and regulations promulgated thereunder; (b) the Inactive National Guard, as provided for in Section 83 of this Act; (c) all allotted but unorganized units, as provided for in Section 48 of this Act; (d) the National Guard Officers' Reserve of Alabama; (e) all retired officers, warrant officers, and enlisted men of the National Guard of Alabama; and (f) all members of the National Guard not Federally recognized and not belonging to any other component of the National Guard."

Section 4. Section 11 of said Military Code of Alabama is hereby amended so as to read as follows: "Section 11. EXEMPTION FROM POLL TAX, STREET TAX AND JURY DUTY: Owing to liability to call for military duty during their term of service, every officer and enlisted man of the National Guard and Naval Militia of Alabama shall be exempt from poll tax, road duty, street tax and jury duty during his active membership, any local or special laws to the contrary notwithstanding; provided that every person who shall have served an aggregate of twenty-one years in the active National Guard or Naval Militia of Alabama shall be thereafter forever exempt from poll tax, road duty, street tax and jury duty by reason of such service, any other laws to the contrary notwithstanding. The commanding officer of any company, troop, battery, or any similar organization, shall furnish each member of his command applying for same such certificate of membership as may be prescribed by the Adjutant General, signed by such commanding officer, which certificate shall be accepted by any court as proof of exemption as provided by this

law. Such certificates shall be issued to every officer and enlisted man, as aforesaid, under such Regulations and upon such forms as may be prescribed and provided by the Adjutant General. The said certificates shall be effective, as to poll tax, for the poll tax year for which same is issued without regard to dates prescribed for payment of poll tax, and as to the other exemptions provided herein, the same shall be effective for the calendar year in which it is issued. The Commanding Officer of a Division, Brigade, Regiment or separate Battalion shall issue similar certificates to each of his field officers, commissioned and enlisted staff, and the Adjutant General with the approval of the Governor shall issue similar certificates to each General Officer of the Alabama National Guard, and to each Regimental Commander not in the Brigade or Division of a General Officer of the Line of the Alabama National Guard, and to each commissioned officer, warrant officer and enlisted man of the National Guard whose immediate tactical commanding officer is not a member of the Alabama National Guard."

Section 5. Section 12 of said Military Code of Alabama is hereby amended so as to read as follows: "Section 12. **MILITARY LEAVE FOR GOVERNMENT EMPLOYEES:** All officers and employees of the State of Alabama, or of any county, municipality, or other agency or political subdivision thereof, who shall be active members of the Alabama National Guard or Naval Militia, or of the Officer's Reserve Corps of the United States Army, or of the United States Naval Reserves, shall be entitled to military or naval leave of absence from their respective civil duties and occupations on all days that they shall be engaged in field or coast defense or other training or on other service ordered under the provisions of this Act, or of the National Defense Act, or of the Federal laws governing the United States Naval Reserves, without loss of pay, time, efficiency rating, annual vacation, or sick leave, but no such person granted such leave of absence with pay shall be paid for more than twenty-one working days at any one time."

Section 6. Section 16 of said Military Code of Alabama is hereby amended so as to read as follows: "Section 16. **DEPOSITORIES OR ARSENALS:** The Governor shall when necessary designate a depository, or depositories, for the undistributed military property of the State, or in the custody of the State, which same shall be maintained at the expense of the State. Any portion of any regular appropriation for the support of the State Military Department and State Militia which is unexpended and unobligated after the expiration of the eleventh month of any fiscal year shall be available for use in building, rebuilding, repairing, enlarging, equipping, and maintaining a centrally located depository, arsenal, military warehouse, shop, and garage for the purposes named above and for the upkeep and repair of such property, and shall also be

available for the payment of expenses and obligations of the Armory Commission of Alabama in carrying out its duties, or for providing necessary office furniture, equipment, or supplies for the headquarters and units of the Alabama National Guard, in accordance with priorities established by the Adjutant General."

Section 7. Section 23 of said Military Code of Alabama is hereby amended so as to read as follows: "Section 23. OFFICERS ACCOUNTABLE AND RESPONSIBLE FOR MILITARY PROPERTY: Any officer receiving public property for military use shall be accountable and responsible for the articles so received by him, and he shall not transfer such property, or any portion thereof, to another, either as a loan or permanently, without the authority of the Adjutant General, but The Adjutant General shall have authority to order the transfer, either as a loan or permanently, whenever in his discretion the good of the service requires it, or any property of the State in the custody of the State Militia between different units and headquarters. An officer shall be liable to make good to the State all such property defaced, injured, destroyed, or lost by any neglect or default on his part in an action instituted in the name of the State by the Attorney General when so requested by The Adjutant General. The Adjutant General shall be the exclusive custodian of all State property in the custody of the State Militia, or of any unit or headquarters thereof, and he shall maintain a perpetual inventory thereof, and shall prescribe reasonable rules and regulations for the care, accountability, responsibility, and disposition thereof."

Section 8. Section 30 of said Military Code of Alabama is hereby amended so as to read as follows: "Section 30. RETAINING PROPERTY: Any person who sells, purchases, retains, or has in his possession or custody without right any military property belonging to this State or the United States, or any organization or headquarters of the National Guard or Naval Militia of this State, and who after proper demand refuses to deliver the same to any officer entitled to take possession thereof, is guilty of a misdemeanor; and any person belonging to the Militia of Alabama who, contrary to the order of the proper officer, retains in his possession or control any military property of this State or of the United States is guilty of a misdemeanor. Any commanding officer may take possession of such military property mentioned in this Section wherever the same may be found, and upon conviction of either such misdemeanor the guilty party shall be fined a sum equal to double the value of the articles in question. When a company commander knows the whereabouts of any such person unlawfully retaining such property, he may make a written request on the sheriff of the county in which the person may be located to seize such property, giving a full description of such property, and any

sheriff receiving such a request shall promptly seize such property if the person and the property be found in his county and forward the same to the officer making the request; the sheriff or other officer making such seizure shall be entitled to receive compensation therefor as for like service in civil cases together with necessary expenses of transporting such property, the same to be paid in the same manner as provided for other fees in Section 143 of this Act."

Section 9. Section 42 of said Military Code of Alabama is hereby amended so as to read as follows: "Section 42. SALE OF LIQUORS PREVENTED IN OR NEAR CAMP: The Commanding Officer of any camp or garrison shall enforce proper sanitation within such limits, and he shall co-operate with all Federal, State or local laws enacted for the purpose of preventing the sale, or giving away of spirituous, vinous, or malt liquors, and the enforcement of State and Federal Sanitary Health Laws within the limits prescribed in this Section".

Section 10. Section 43 of said Military Code of Alabama is hereby amended so as to read as follows: "Section 43. NATIONAL GUARD SERVICE MEDALS: Any present or former officer, warrant officer, or enlisted man who shall have faithfully served in the National Guard or Naval Militia for an aggregate of six years, shall have conferred upon him the right to wear the "Faithful Service Cross", which shall be awarded by order of the Governor and furnished at the expense of the State. Any officer, warrant officer, or enlisted man of the National Guard or Naval Militia of this State who shall have served an aggregate of thirty days in the active Military Service of the State, in the aid of civil authorities in upholding the law and preserving order, protecting lives and property, in the aid and relief of our citizens in disaster and other similar service, duly ordered by the Governor, shall have conferred upon them the right to wear the "Special Service Medal", which shall be awarded by order of the Governor and furnished at the expense of the State. Any officer, warrant officer, or enlisted man of the National Guard or the Naval Militia of this State who shall have faithfully served in the National Guard or Naval Militia of this State an aggregate of twenty-one years, shall have conferred upon him the right to wear the "Veteran Service Medal", which shall be awarded by order of the Governor and furnished at the expense of the State. Service in the organizations of the National Guard or Naval Militia called, drafted, or ordered into the service of the United States shall be credited as active service in the National Guard or Naval Militia of this State for the purposes named in this Section, when the soldier or sailor is a member of the National Guard or Naval Militia on the date of Federal call, draft, or order, and this provision shall be retroactive, so as to include service in the Great War in the period between April 6, 1917

and the date of discharge from the United States service, in the case of each soldier or sailor. The "Special Service Medal" may also be awarded for such special individual acts as the State Military Advisory Board may determine to be meritorious, and the Governor may approve, without regard to period of time involved or date of the act."

Section 11. Section 44 of said Military Code of Alabama is hereby amended so as to read as follows: "Section 44. RETIREMENT OF OFFICERS, WARRANT OFFICERS, AND ENLISTED MEN: Whenever any officer, warrant officer, or enlisted man of the National Guard or Naval Militia has served an aggregate of ten years in the active National Guard or Naval Militia of Alabama, he may, upon application to the Adjutant General, be retired from active service and placed on the retired list in the highest grade attained by him during his period of active service. Whenever any such officer, warrant officer, or enlisted man has reached the age of sixty-four, he shall be retired from active service and shall be placed on the retired list in the highest grade attained by him during his period of active service. Whenever any such officer or warrant officer has reached the age of fifty-five, he may, at the discretion of the Governor, be retired from active service and placed on the retired list in the grade held by him at the time of such retirement, provided that any such officer or warrant officer so retired may subsequently, upon application made by him to the Governor through the Adjutant General, be placed on the retired list in the highest grade attained by him during his period of active service. Officers, warrant officers, and enlisted men on the retired list may wear on appropriate occasions the uniform prescribed for the grade and branch in which they are placed on the retired list. Any officer, warrant officer, or enlisted man who has heretofore been honorably discharged after ten years active service in the National Guard or Naval Militia of Alabama may be placed upon the retired list in the highest grade attained by him during his period of active service, upon his own application to the Adjutant General. Any officer, warrant officer, or enlisted man of the National Guard or Naval Militia of Alabama retired under any of the provisions of this Act shall continue to be a member of the National Guard or Naval Militia of Alabama, as the case may be; and any such retired officer shall be available for and subject to being called to active duty by the Governor, with his consent, for special assignment not inconsistent with his health, age, and physical condition, and when so called to active duty he shall receive pay and expenses according to the grade in which he is retired as provided by law for other officers of the National Guard or Naval Militia when called into active service for the State, provided that it may be stipulated between the Governor and such

officer when he is called to duty, or at any other time, that he shall receive no pay or expenses, or only expenses, or only partial pay and expenses in such amount as may be agreed upon. Any officer, warrant officer, or enlisted man of the Alabama National Guard or Naval Militia may be placed upon such retired list in the highest grade held by him in the service whenever he is found to be physically disqualified for active service."

Section 12. Section 51 of said Military Code of Alabama is hereby amended so as to read as follows: "Section 51. STATE MILITARY ADVISORY BOARD—MEMBERSHIP: There shall be a State Military Advisory Board consisting of all the active general officers of the line of the Alabama National Guard, The Adjutant General, the ranking Judge Advocate General of the Alabama National Guard, and not to exceed six (6) additional ranking officers of the line in the Alabama National Guard in grades not lower than that of Major, and such additional members last mentioned shall represent as far as shall be practicable the various branches of the Service in the State having the largest numbers of officers, warrant officers, and enlisted men, but not more than one officer from any one branch shall be members of said Board. Membership on said Board shall be coterminous with active service in the Alabama National Guard and in the office and assignment which caused an officer to be designated as a member of the Board. The Board shall be organized as, and its procedure shall be that of, a court of inquiry organized under the provisions of the National Defense Act."

Section 13. Section 55 of said Military Code of Alabama is hereby amended so as to read as follows: "Section 55. REGULATIONS GOVERNING THE UNORGANIZED MILITIA: Whenever any part of the Unorganized Militia is ordered out for active Military service, or other service which may be necessary in the discretion of the Governor, it shall be governed by the same rules and regulations, and be subject to the same penalties as the National Guard or Naval Militia. The Governor, in his discretion, may appoint and commission emergency officers in the State Militia at any time. Such commissions shall expire at the end of five years from the effective date thereof. All commissions of emergency officers of the State Militia now in force shall expire on December 31, 1939, or at the end of five years from the effective date of such commissions, whichever is the later."

Section 14. Section 65 of said Military Code of Alabama is hereby amended so as to read as follows: Section 65. THE PERSONAL STAFF OF THE GOVERNOR: The personal military staff of the Governor shall consist of twenty-one officers, one of whom may be given the rank of Colonel, and the remainder the rank of Lieutenant Colonel or Commander, all of whom shall be

appointed and commissioned by the Governor and hold office at his pleasure. All such officers shall be commissioned in the State Militia as aides de camp to the Governor, but no such officer shall be barred, by reason of being a member of said staff, from holding an active or inactive commission in the Alabama National Guard or Naval Militia or a reserve commission in the Army, Navy, or Marine Corps of the United States or any civil office or employment under this State or any agency or political subdivision thereof. No member of said staff shall by virtue of such membership exercise any command or control over any part of the Federally recognized National Guard."

Section 15. Section 68 of said Military Code of Alabama is hereby amended so as to read as follows: "Section 68. COMPLIANCE WITH THE FEDERAL GOVERNMENT REQUIREMENTS RELATING TO OFFICERS OF THE STATE STAFF. That hereafter no person shall be appointed an officer on the Federally recognized State Staff (unless he be commissioned in the Medical Corps, Veterinary Corps, or Chaplains' Corps), unless he shall have had at least four years service in some component of the United States Army, including at least two years service in the Federally recognized National Guard, and shall have shown by his records of achievement in the Military service or in his civil profession, or both, that he is qualified for the duties and responsibilities of the office for which he may be appointed, and all members of said State Staff shall hold their appointments at the pleasure of the Governor. However, nothing in this section shall be construed or operate to limit the provisions of any Federal law or regulation relative to the qualifications for officers appointed on or holding commissions on the State Staff."

Section 16. Section 69 of said Military Code of Alabama is hereby amended so as to read as follows: "Section 69. EXHIBITIONS, BOXING, SPARRING, AND WRESTLING MATCHES: Exhibitions of various kinds and boxing, sparring, wrestling, and other athletic matches and contests may be held in the armory or on the adjacent grounds of any National Guard or Naval Militia unit or post, under supervision and control of the Board of Control of such armory, provided such use does not interfere with the military or naval use of such armory or grounds. All revenues derived from the operation of such exhibitions, matches, or contests, or from the lease of armories or adjacent grounds for such purposes shall be covered into the proper unit or station Board of Control fund, in accordance with regulations prescribed by the Adjutant General. Units of the National Guard or Naval Militia shall not be required to obtain any authority, permission, or license from any agency of the state or any political subdivision thereof to conduct or hold any such exhibitions,

matches, or contests, or to lease armories or grounds to any person for the holding of such, and all such exhibitions, matches, and contests so held under authority of this Act shall be exempt from the payment of any and every form of license or taxation, either state, county, or municipal. It shall be the duty of The Adjutant General to promulgate and enforce rules and regulations governing such use of armories and grounds, leases thereof for such purposes, and the admissions or rentals to be charged therefor. No admission charge to any exhibition, match, bout, or contest held under authority of this Section shall exceed forty-five cents per person."

Section 17. Section 71 of said Military Code of Alabama is hereby amended so as to read as follows: "Section 71. THE ADJUTANT GENERAL: The head of the State Military Department shall be a commissioned officer of the National Guard of Alabama and shall be designated as The Adjutant General. He shall be designated and assigned to duty as The Adjutant General by the Governor and shall serve as Adjutant General at the pleasure of the Governor. He may be commissioned as an officer on the State Staff, in the Adjutant General's Department, as provided in Section 68 of this Act, and he may have such rank as is now or may hereafter be provided for an officer of the State Staff, Adjutant General's Department, under the provisions of the National Defense Act and War Department regulations promulgated thereunder. The officer of the National Guard of Alabama assigned to duty by the Governor as The Adjutant General may be commissioned by the Governor as a general officer in the National Guard of Alabama, with the consent of the Senate. The Adjutant General shall be appointed from among active officers of the Federally recognized National Guard, and he shall have had at least six years service therein, two years of which must have been in the line, and shall have served as a commissioned officer in the Active National Guard for not less than four years."

Section 18. Section 75 of said Military Code of Alabama is hereby amended so as to read as follows: "Section 75. OFFICERS AND EMPLOYEES IN STATE MILITARY DEPARTMENT: The Adjutant General may have to assist him in the performance of his duties and to perform the various duties of the State Military Department such number of military officers and civil and military employees as may be approved by the Governor, such officers and employees to be appointed by The Adjutant General subject to the approval of the Governor. All persons hereafter appointed as officers in the State Military Department shall have served at least three years in the Alabama National Guard and should have military and civil education, training, and experience particularly fitting him for the position to which he is assigned. All male officers and employees of the State Military

Department shall be members of the Alabama National Guard or Naval Militia, provided that enlisted men of the United States Army on duty with the Alabama National Guard may be employed on a part-time basis to perform specified duties. The assignments, duties, and authority of all officers and employees of the State Military Department shall be prescribed and assigned by The Adjutant General, with the approval of the Governor. Among the officers of the State Military Department there shall be a United States Property and Disbursing Officer, who shall be the chief of the Property and Disbursing Section and be in charge of all matters pertaining to Federal and State property and finance, and an Executive Officer, who shall perform for The Adjutant General those duties normally performed by an executive officer or chief of staff under War Department regulations for the United States Army and such other duties as may be assigned by The Adjutant General, and such Executive Officer, with the approval of the Governor, may be designated as Acting The Adjutant General during the absence of The Adjutant General."

Section 19. Section 77 of said Military Code of Alabama is hereby amended so as to read as follows: "Section 77. REPORTS MADE BY THE ADJUTANT GENERAL TO THE GOVERNOR: On or before the first day of December next preceding the beginning of each regular session of the Legislature of Alabama, The Adjutant General shall prepare and submit to the Governor a report covering the functioning of the State Military Department during the period since the last previous such report and ending the thirtieth day of September of the year in which the report is submitted, which report shall be transmitted by the Governor to the Legislature for its information and consideration. Said report shall include the number and condition of all arms and equipment belonging to the State, or in the custody of the State, for the use of the Alabama National Guard and Naval Militia, statistics pertaining to the strength and organization of the Alabama National Guard, Naval Militia, and State Militia, information concerning armories, arsenals, warehouses, and similar structures and establishments, a detailed report of all funds and monies received and disbursed by the State Military Department, his recommendations as to needed legislation and appropriations, and such other information concerning the land and naval forces of the State as may be of value and interest to the Governor, the Legislature, and the public. Such report shall be printed and bound, and the expenses incident thereto shall be paid out of the appropriation authorized by Section 188 of this Act."

Section 20. Section 90 of said Military Code of Alabama is hereby amended so as to read as follows: "Section 90. STATE REGISTER OF ELIGIBLES FOR COMMISSION: Subject to

provisions of the National Defense Act, there shall be maintained by The Adjutant General a State Register of Eligibles for commission in the Alabama National Guard in all grades and branches of the service up to and including the grade of Colonel. All nominations for commission in the Alabama National Guard shall be made from this State Register of Eligibles and from no other source. Persons desiring to have their names placed on the State Register of Eligibles in order to become eligible for nomination and appointment as officers in the Alabama National Guard shall come from the classes of persons mentioned in Section 85 of this Act, and they shall be required to establish their qualifications for commission in the grade and branch of the service for which they desire to become eligible by examination in accordance with provisions of National Defense Act and regulations promulgated thereunder governing appointment and Federal recognition of commissioned officers in the National Guard. Each candidate who qualifies for commission under the provisions of this section shall be placed by The Adjutant General on the State Register of Eligibles and given a State Certificate of Eligibility for the grade and branch for which he qualifies, and such certificate shall make the holder thereof eligible for nomination for such grade and branch at any time within two years from the effective date of such certificate and exempt him from further examination by the State, except as to his physical condition, in connection with any appointment made under a nomination made within such period of time. Such certificates shall be renewable in such manner and under such conditions as are prescribed by The Adjutant General, who shall cause such procedure to conform to the method by which National Guard Bureau Certificates of Eligibility in the National Guard of the United States are renewed. All State Certificates of Eligibility now in force will expire at the end of two years from their effective dates, or on the thirty-first day of January, 1940, whichever date is the later; provided, that no State Certificate of Eligibility now in force shall expire prior to the expiration of any National Guard Bureau Certificate of Eligibility in the National Guard of the United States for the same grade and branch now held by the holder of such certificate. Members of the Officers Reserve Corps of the United States Army who are residents and citizens of the State of Alabama may, at the discretion of The Adjutant General, be placed on the State Register of Eligibles and granted State Certificates of Eligibility in the grades and branches in or for which they hold commissions or certificates of capacity in the Officers Reserve Corps without professional examination, upon their submitting written application in the form prescribed by The Adjutant General accompanied by satisfactory evidence of such commission or certificate of capacity in the Officers Reserve Corps and by a

favorable report of a recent physical examination by a medical officer of some component of the United States Army. Whenever it becomes necessary or desirable for the good of the service to transfer a Federally recognized officer of the National Guard from one arm or branch of the service to another, The Adjutant General may allow such officer not to exceed one year from the date of such transfer in which to meet the qualifications for Federal recognition in the new arm or branch, provided such officer is transferred in the same or a lower grade, without being on the State Register of Eligibles for the new grade and branch."

Section 21. Section 91 of said Military Code of Alabama is hereby amended so as to read as follows: "Section 91. ELECTION, NOMINATION AND APPOINTMENT OF FIELD OFFICERS: TERM OF OFFICE REMOVAL: VACANCIES: ORDERS FOR ELECTION: The field officers of each organization shall be elected by the elected field and line officers of such organization by ballot or in such manner as may be determined upon by the Governor in his discretion. Field officers' terms of office shall be continuous, and such officers shall not be removed from office except as provided for in Sections 44 and 89 of this Act, or unless they shall fail to meet the qualifications for officers prescribed in Section 97 of this Act. Whenever any vacancy shall occur from any cause in any field office, orders for an election for the purpose of nominating a candidate to fill such vacancy shall be issued by The Adjutant General, and such election be held and nomination and returns of such elections made, under such rules and regulations as may be prescribed by The Adjutant General not inconsistent with the provisions of this Act. Fifteen days advance notice must be given to the commanding officers of companies, troops, or batteries, squadrons, regiments, or similar organizations in which an election is to be held. A majority of the votes cast in such election shall be necessary to elect in any election held under this Section, and in event there is a tie vote, The Adjutant General shall cast the deciding vote. Should there be a failure to elect and to make proper returns within sixty days, then the Governor shall select and appoint an officer from the State Register of Eligibles. Battalion and Squadron Commanders shall be elected by the elected officers in the Battalion or Squadron in which the vacancy occurs or exists."

Section 22. Section 93 of said Military Code of Alabama is hereby amended so as to read as follows: "Section 93. ELECTION AND NOMINATION OF COMPANY OFFICERS: The line officers of each company, troop, battery, or similar unit shall be nominated to the Governor for commission on election by the enlisted men thereof, whose terms of office shall be the same and hold under like conditions as that of field officers, as provided in

Section 91 of this Act. Whenever there shall occur a vacancy in any company, troop, battery, or similar unit by reason of death, resignation, or removal, or any other cause, The Adjutant General shall order such organization to nominate a candidate from the Register of Eligibles by election to fill such vacancy under such rules and regulations as may be prescribed by The Adjutant General, not inconsistent with the provisions of this Act, and must give at least ten days advance notice of such election by orders published at the armory of said company, troop, battery, or similar unit, where said election is to take place. To prevent fraud or collusion, a time must be fixed when ballots will be received, and no ballot will be received or counted after that hour. A majority of the votes cast shall be necessary to elect in any election held under this Section."

Section 23. Section 95 of said Military Code of Alabama is hereby amended so as to read as follows: "Section 95. WHEN OFFICERS AND ENLISTED MEN ARE ENTITLED TO VOTE: No officer or enlisted man shall be entitled to vote in any election for the nomination of commissioned officers of the National Guard or Naval Militia of Alabama who has not complied with the Federal requirements for armory drill pay or who has not been present for at least three of the last six drills or periods of instruction, next preceding said election, of the organization of which he may be a member."

Section 24. Section 97 of said Military Code of Alabama is hereby amended so as to read as follows: "Section 97. ISSUANCE OF COMMISSIONS, EXAMINATIONS: All officers of the National Guard and Naval Militia of the State of Alabama shall be commissioned by the Governor and Commander-in-Chief, and no person shall be commissioned in the Alabama National Guard or Naval Militia who is not a citizen and resident of the State. The Governor shall, before a commission is issued, order a candidate for commission up for examination before an examining Board appointed under the provisions of the National Defense Act, or Federal Acts governing the Naval Reserve, as they are now written or as they may be hereafter amended, unless such candidate shall have established his eligibility therefor as provided in Section 90 of this Act, or unless the candidate for commission in the Naval Militia presents evidence that he is already holding a like commission in the United States Naval Reserves. All commissioned officers, warrant officers, and enlisted men of the National Guard or Naval Militia of Alabama, except members of the Inactive National Guard of Alabama, shall be at all times residents of the community, county, or military area of the unit in which they are assigned, or of which they are members."

Section 25. Section 103 of said Military Code of Alabama is

hereby amended so as to read as follows: "Section 103. PENALTY FOR NON-ATTENDANCE AT DRILLS, FIELD INSTRUCTION, OR NON-COMPLIANCE WITH DUTIES RELATING TO ARMORY DRILLS: Officers, warrant officers and enlisted men of the Militia may be tried by court-martial and fined not to exceed the sum of ten dollars and the cost of the prosecution for non-attendance or tardiness at any drill, period of instruction, or similar military work, and for each day of absence from annual field training or annual cruise, inspection or other military or naval duties ordered by proper authority, and for failure to comply with any ordered requirement relating to any course of study prescribed in lieu of armory drill. Failure to pay such fine shall cause forfeiture of the commission of the delinquent officer, in the discretion of the Governor. Any employer of any member of the State Militia who shall seek to prevent such member of the Militia from attending any duly ordered period of field training or similar training, other than Armory drill, by threatening to discharge or suspend him or reduce his rate of pay, or who shall actually discharge or suspend or reduce the pay of any member of the Militia for the reason that he is required to and does attend any duly ordered period of field training or similar training, other than armory drill, shall be guilty of a misdemeanor and upon conviction shall be fined not less than twenty dollars nor more than fifty dollars for each offense."

Section 26. Section 118 of said Military Code of Alabama is hereby amended so as to read as follows: "Section 118. COMPENSATION FOR INJURY, DISABILITY, AND DEATH: (a) *Injury and Temporary Disability*: Every member of the Militia who shall be wounded, injured, or temporarily disabled, whether by reason of injury, sickness, or disease, as a direct result of active military service for the State, as defined in paragraph (d) of this Section, shall be provided for and furnished necessary medical attention, hospitalization, medicines, and dressings at the expense of the State, and in addition thereto he shall be carried in the active military service of the State until maximum possible physical improvement has been reached, but not to exceed eighteen months; provided that after the first sixty days the pay of such person shall be computed on the basis of his earnings in civilian life and in the manner prescribed by the Workmens' Compensation Laws of Alabama in force at the time such injury or disability occurs, if his pay so computed would be greater than his pay prescribed under this Act for active military or naval service for the State. (b) *Permanent Disability*: Any member of the Militia who shall be permanently disabled, either totally or partially, whether by wound, injury, sickness or disease, as a direct result of active military service for the State, as defined in paragraph (d) of this Sec-

tion, after having been provided for under provisions of paragraph (a) of this Section until he has reached the maximum possible physical improvement, shall in addition thereto be paid by the State compensation for such disability, the same to be computed in the same manner and on the same basis as shall be provided by the Workmen's Compensation Laws of Alabama in force at the time such disability is caused, except that the maximum weekly benefits payable shall be twenty dollars; provided that the earnings of the disabled person in his civil vocation shall be the basis for computing his compensation, but in no case shall the basis for computing such compensation be less than his rate of military or naval pay under this Act. Dismemberment of any portion of the anatomy shall be considered as at least permanent partial disability and shall be compensated for by the number of weeks benefits provided for similar cases of dismemberment under such Workmen's Compensation Laws. (c) *Death*: In cases of death resulting directly from active military service for the State, as defined in paragraph (d) of this Section, the heirs of the deceased, as defined in said paragraph (d), shall receive the same compensation as shall be provided in the Workmen's Compensation Laws of Alabama in force at the time of his death, except that the maximum weekly benefits payable shall be twenty dollars. The earnings of the deceased in his civil vocation shall be the basis for computing such compensation, but in no case shall the basis for computing such compensation be less than his rate of military or naval pay under this Act. Burial expenses not to exceed three hundred dollars are authorized to be paid by the State. (d) *Definitions*: As used in this section, the term "active military service for the State" shall include service when called out in cases of riot, breach of peace, resistance to process, invasion, rebellion, insurrection, or imminent danger thereof, in aid of the civil authorities, and in cases of disaster, and shall also include periods of field training or similar training or annual cruises ordered by competent authority, performance of official duties by military personnel of the State Military Department, or any other service which the Governor is authorized by Section 39 of this Act to designate or construe as "In the Active Military or Naval Service for the State" when so designated in orders calling for such service. The definitions of "permanent total disability" and "permanent partial disability" set out in the applicable Workmen's Compensation Laws shall govern in cases arising under this Section, except as herein otherwise specified. The terms "heirs of the deceased" or "Dependent" as used in this Section shall mean dependents of the deceased as defined in the applicable Workmen's Compensation Laws, if there be any such dependents; if there be no such dependents, then the term "heirs of the deceased" shall be as defined by the laws of descent and distribution,

and in such cases the compensation payable shall be as for a dependent widow for three hundred weeks, and such compensation shall not be subject to the payment of the debts or liabilities of the deceased. (e) *Procedure*: The Adjutant General, with the approval of the Governor, will prescribe reasonable rules and regulations for the administration of the provisions of this Section; provided that each claim for compensation under paragraphs (b) and (c) shall before payment be referred to a Board of Inquiry, composed of three officers, for investigation and recommendations, such board to be appointed by The Adjutant General either before or at the time any claim is presented; service on such Board shall be "In the Active Military or Naval Service of the State" and the expenses of such Board shall be paid out of the appropriation authorized by Section 188 of this Act; persons having or claiming an interest in the compensation payable hereunder in any case shall be notified of the time and place of hearings of such Board of Inquiry and afforded an opportunity to be present and present evidence in support of their claims. All duties of the Adjutant General, Governor, and other state officials and employees in connection with the payment of compensation due under this Section shall be considered as "ministerial", except as to the manner of payment. Claims for compensation due under this Section shall be forever barred unless presented to The Adjutant General within two years after the claim accrues, or within two years after the last payment of any benefits under this Section, or unless mandamus proceedings have been commenced within such period of time and after the end of six months to enforce payment thereof. (f) *Manner of Payment*: All compensation, pay and expenses authorized under this Section shall be paid from any moneys in the General Treasury not otherwise appropriated, provided that the Director of Finance is authorized to re-insure the State's risk or liabilities under this Section with the State Insurance Fund or any private insurance or bonding company authorized to do business in Alabama and to pay the premiums therefor out of any funds in the General Treasury not otherwise appropriated. Pay due under paragraph (a) of this Section shall be paid monthly. Compensation payable under paragraph (b) and (c) of this Section shall be payable either monthly or in a lump sum, or both, at the discretion of The Adjutant General with the approval of the Governor, and no discount shall be made in cases of payment in lump sums, provided that The Adjutant General, with the approval of the Governor, may at any time change the method of payment to a lump sum payment, and provided further that the Board of Inquiry investigating each case shall make recommendations as to manner of payment of compensation. Payments of compensation and expenses under this Section shall be on itemized, verified vouchers

approved by The Adjutant General and the Governor, supported by itemized invoices or receipts, and accompanied, in cases where a Board of Inquiry is required, by a certified copy of the report of the Board of Inquiry."

Section 27. Section 143 of said Military Code of Alabama is hereby amended so as to read as follows: "Section 143. COMPENSATION OF CIVIL OFFICERS: Sheriffs, other civil officers, and National Guardsmen executing the warrants or process of a military court, including arrests made at the order of unit commanders as a preliminary to trial for violation of provisions of this Act, shall receive as compensation therefor the fees allowed by law for like service in the civil courts, the same to be taxed by such court. All such fees and expenses of trial in courts-martial cases, and the fees of sheriffs and jailers in all cases for the keep of prisoners, shall be paid by The Adjutant General out of the Appropriations authorized by Section 188 of this Act."

Section 28. Section 187 of said Military Code of Alabama is hereby amended so as to read as follows: "Section 187. REGULAR MILITARY APPROPRIATIONS: The Legislature of Alabama shall appropriate during each of its regular sessions, or during such other sessions as conditions may require, a sufficient sum of money, based upon estimates and recommendations of The Adjutant General and approved by the Governor, for the purpose of defraying the expenses of the State Military Department in carrying out the provisions of this Act, and such other expenses connected with the organization, maintenance, support, upkeep, administration, armament, training, and discipline of the National Guard or Naval Militia of Alabama and other expenses of a general or special nature as may be to the interest and benefit of the National Guard or Naval Militia as the Governor may approve. Any appropriations made by law for payment of salaries or other expenses of any agency of the State which shall be merged or consolidated with, or made a part or subdivision of the State Military Department, shall be merged with and become a part of the appropriations for "other salaries" and "other expenses" of the State Military Department. The Governor shall prescribe necessary rules and regulations governing the manner and method of disbursing moneys authorized by this Section to be appropriated, and all expenses authorized to be contracted shall be certified to and verified by affidavit, with itemized vouchers and orders attached. Any portion of any item of any regular appropriation for the support of the State Military Department and State Militia which is unexpended and unobligated after the expiration of the eleventh month of any fiscal year shall be available for use in taking care of any expenses of operating the State Military Department for which the regular appropriation shall be insufficient for that fiscal year."

Section 29. If any section, paragraph, clause, or separate provision of this Act or of said Military Code of Alabama as amended by this Act shall be held to be invalid, such fact shall not affect or render invalid any other section, paragraph, clause, or separate provision of this Act or of said Military Code of Alabama as amended by this Act, it being the intention of the Legislature in enacting this Act to enact each such section, paragraph, clause, and provision separately.

Section 30. Any law or part of any law enacted prior to the date of the approval of this Act which is inconsistent with any provisions of this Act or of said Military Code of Alabama as amended by this Act is hereby expressly repealed.

Section 31. This Act and all the provisions thereof shall become effective immediately upon its approval.

Approved September 22, 1939.

No. 510)

(H. 782—McGowin

AN ACT

To amend Schedule 156.11 of Chapter 4 of Article XIII of Act No. 194 of the Regular Session of the Legislature of Alabama of 1935, entitled, "An act to provide for the general revenue of the State of Alabama," and approved July 10, 1935.

Be it Enacted by the Legislature of Alabama:

Section 1. That Schedule 156.11 of Chapter 4 of Article XIII of Act No. 194 of the Regular Session of the Legislature of Alabama of 1935, entitled, "An act to provide for the general revenue of the State of Alabama" and approved July 10, 1935, be, and said Schedule 156.11 hereby is, amended so as to read as follows: Schedule 156.11.—One third of the excise tax herein imposed, when collected, shall be divided, monthly, as collected, less the cost of collection, as follows: One half of said 1-3 shall be paid into the State Treasury to the credit of the State Highway Department for the public road and bridge fund, as provided by Sections 18 and 19 of an Act No. 19 of Legislature of Alabama, approved January 31, 1935, which said sections are made a part of this section and read as follows: Section 18. That the proceeds from one cent of said tax herein levied may be used by the Governor of the State of Alabama at any time within twelve months from the approval of this Act for the purpose of matching any United States Government funds on any fair and reasonable basis. Section 19. That the levy of the one cent tax as provided and levied under the provisions of an act entitled, "An Act to impose, for the use and purpose of supervising, preserving, maintaining, constructing and regulating the use of public roads and bridges in the State of

Alabama, and to maintain and supervise State Convicts while working upon such roads and bridges, an excise tax on all persons, companies, agencies, corporations and associations who sell, distribute, store or draw from storage for any purpose whatsoever, gasoline or any other liquid motor fuels or devices or any substitutes therefor within the State of Alabama; providing for the collection of such excise tax and the payment of same into the State Treasury to the credit of the State Highway Department for the public road and bridge funds, providing for the enforcement of this act and fixing a penalty for the violation of the provisions hereof; providing that the said excise tax so imposed shall be in addition to all other excise tax now imposed by law; and providing that freight agents of railroads and all agents of all transportation companies operating within the State of Alabama and who transport motor fuels, shall report to the State Tax Commission all shipments of gasoline or any substitute therefor, received at any of their stations within the State. Approved July 27, 1931," be and the same is hereby suspended as of and on February 1, 1935, and all other provisions of said act shall remain and be in full force and effect until the full payment of the amount due thereunder is paid in full and thereafter said act is hereby repealed. That the levy of the one cent tax as provided and levied under the provisions of an act entitled "An Act to impose an excise tax in addition to any and all other excise taxes now imposed by law on persons, corporations, co-partnerships, companies, agencies or associations engaged in selling, distributing, refining, storing, or withdrawing from storage for any purpose whatsoever gasoline or other liquid motor fuels or devices or substitutes therefor in this State, and providing for the collection and payment of such tax; and for the examination of the books and records of any person, corporation, co-partnerships, companies, agencies or associations engaged in selling, distributing, refining, storing or withdrawing from storage for any purpose whatsoever or other liquid motor fuels or devices or substitutes therefor in this State; providing a penalty for any false statements made in making reports to the State Tax Commission; providing for the distribution of the funds derived therefrom, and for the use to which such funds may be put, and providing for the enforcement of this act and fixing a penalty for violation of any of the provisions hereof. Approved November 5, 1932, be and the same is hereby suspended as of and on February 1, 1935, and all provisions of said act shall remain and be in full force and effect until the full payment of the amount due thereunder is paid in full and thereafter said Act is hereby repealed; "and the other one half of said 1-3 shall be divided equally among the 67 counties of the State of Alabama, monthly as collected, less the cost of collection, payment to be made to the County Treasurer or Depository of said counties on or before the 10th day of each

month of the year, and said funds shall be used by the several counties of the State exclusively for the construction, maintenance, supervision and policing of the public roads and bridges in the respective counties; provided, however, that the Board of Revenue or other such governing body of a county may direct the State Tax Commission to pay over to the State Highway Department such part of said funds as may be agreed upon by the Board of Revenue or such other governing body of any county, and the Governor of the State of Alabama, which said funds are to be used in the construction and maintenance of roads in said county, to be agreed upon by the Board of Revenue of such county, or such other governing body, and the Governor of the State of Alabama. Notwithstanding anything in this schedule to the contrary, after costs of collection as hereinabove in this schedule provided for, the sum of ten thousand four hundred twenty dollars shall be deducted monthly from the proceeds of the two cent tax dealt with in this schedule before any distribution of such proceeds in accordance with the foregoing provisions of this schedule, and only the balance of such proceeds, after such costs of collection and such deduction of ten thousand four hundred twenty dollars, shall be subject to distribution in accordance with the scheme of distribution hereinabove in this schedule provided. The said monthly deduction of ten thousand four hundred twenty dollars shall be set aside in a fund to the credit of the several cities and towns in the state heretofore incorporated, and said fund shall be semi-annually apportioned among, and paid to, the said several incorporated cities and towns in the state on the basis of the ratio of the population of each such city or town to the total population of all such cities and towns, according to the then last federal census. All monies received by municipalities under this schedule shall be used exclusively for the construction, improvement and maintenance of highways or streets and administrative expenses in connection therewith, including the retirement of bonds for the payment of which such revenues may have been pledged, and for no other purposes.

Section 2. That this act shall become effective upon its passage.

Approved September 19, 1939.

No. 511)

(H. 951—Jones

AN ACT

To make a further appropriation of One Hundred Thousand Dollars (\$100,000.00), or so much thereof as may be necessary, out of any funds in the State Treasury not otherwise appropriated, to defray the expenses of the present session of the Legislature.

Be it Enacted by the Legislature of Alabama:

Section 1. There is hereby appropriated, out of any funds in the State Treasury, not otherwise appropriated, and in addition to any appropriation heretofore made, the sum of One Hundred Thousand Dollars (\$100,000.00), or so much thereof as may be necessary, to defray the expenses of the present session of the Legislature.

Section 2. This Act shall be effective upon approval by the Governor.

Approved September 21, 1939.

No. 512)

(H. 997—Smyer

AN ACT

To amend and reenact an Act entitled "An Act to create in each city of the State of Alabama having a population of one hundred thousand or more according to the last or any subsequent Federal census a Pension and Relief Fund for all employees of such City governed under civil service rules and regulations and for certain other officers and employees of such city who may elect to come under the provisions of this act, and for the widows of such officers and employees, to provide for a custodian of said Fund to and to provide for the investment, protection, management and distribution of said Fund by a Board of Managers," Approved January 26, 1937.

Be it Enacted by the Legislature of Alabama:

Section 1. DEFINITIONS. In this act words used in the masculine gender include the feminine and neuter genders, and words used in the neuter include the masculine and feminine genders. The following words, terms and phrases wherever used in this act shall have the meanings respectively ascribed to them in this section unless the context plainly indicates a contrary meaning: "City" or "Such City", a city of the population class of one hundred thousand inhabitants or more according to the last or any subsequent Federal Census. "Employee", a person, not including officers elected by the people, who is regularly employed by such city either through the principal governing body of such city or through a subsidiary board or agency of such city, and whose salary is paid in whole or in part from the public funds of such city. "President of the Commission", the president of the governing body of such city, or the officer of such city whose duties are those of chief executive of such city. "Comptroller", the employee of such city whose duties are those of treasurer or chief financial employee. "Board", the Board of Managers created by this act.

Section II. TO WHOM APPLICABLE. This act shall apply to all employees of each city of the State of Alabama having a population of one hundred thousand or more according to the

last or any subsequent Federal census, who at or subsequent to the effective date of this act are governed under civil service rules and regulations. This act shall also apply to such other employees of such city not governed under civil service rules and regulations as may elect to come under its provisions in the following manner: The employees of a city library board or a city board of health, or other such group of city employees may, by a majority vote of such group elect to come under the provisions of this act, provided the head of such board or group shall in writing, within fifteen days from the effective date of this act certify to the city comptroller the action of such board or group. Any individual employee of such city, except elective officers, may likewise within fifteen days from the effective date of this act file with the city comptroller a written statement that he desires to come under the provisions of this act. Thereafter such groups or individuals, as have elected to come under the provisions of this act, shall remain subject to the provisions of this act, except that any individual subject hereto may at any time hereafter by verified declaration filed with the Board elect to withdraw from the provisions hereof and upon his withdrawal he shall be repaid from the fund created hereby the sums deducted from his salary and paid into such fund, without interest, less any amounts paid him for disability relief or any other benefits. This act shall also apply to the widows of employees who are affected by this act as herein after limited. This act shall not apply to unskilled day laborers of such city nor any members of the police or fire departments of such city who were employed by such city prior to the date of the enactment hereof. For the purposes of this act no person subject hereto shall be treated as receiving a salary from such city in excess of three hundred dollars per month and no deductions from that part of his salary in excess of three hundred dollars per month shall be required to be paid into the Fund; no matching by the city for such excess shall be paid into the fund and no relief or benefits computed or paid hereunder based upon any compensation in excess of such rate of pay. If any person subject hereto has heretofore had deducted and paid into such fund any levy deduction or contribution on that part of his compensation in excess of three hundred dollars per month, such excess deductions, without interest, shall now forthwith be returned to him provided he shall not have heretofore retired or received disability benefits equal to or greater than such refund hereunder.

Section III. PENSION AND RELIEF FUND. There is hereby created and established in and for each city of the State of Alabama having a population of one hundred thousand or more according to the last or any subsequent Federal census a Pension and Relief Fund for the benefit of the employees of such city

coming under the provisions of this act and for the benefit of the widows of such employees. From and after the effective date of this act six per cent (6%) of the salary of every employee affected by this act shall be deducted from the payroll each month by the Comptroller of such city and paid into said Pension and Relief Fund. An equivalent amount shall be paid into said Fund each month from the general fund of such city. The Comptroller of such city shall be the custodian of said Fund, and he is required to keep said Fund in a separate account and to keep a full and complete record of the amount of contribution or deductions made from the salary of each employee and also the amount of contributions or appropriations made by the city. Said record shall be opened to inspection at all reasonable business hours. The custodian of said Fund shall before taking possession of said Fund execute and deliver to the Board of Managers, hereinafter created, and keep in force and effect a bond in an amount equal to the total amount of moneys and securities in his possession, but in no case in excess of fifty thousand dollars, payable to said Board of Managers of such city, and conditioned upon the custodian of said Fund accounting to said Board for all funds and securities coming into his possession as such custodian. The premium on said bond, and all the necessary expenses of said Board, shall be paid out of said Pension and Relief Fund upon order of said Board. The custodian of said Fund shall receive no compensation or salary as such custodian, except that the Board of Managers may select a banking institution located in such city as such custodian and pay it such fees for its services as the Board may deem reasonable and proper and may, if it sees fit, waive bond of such institution as custodian so long as the net worth of same exceeds one and one-half times the total value of the Fund or part thereof entrusted to such institution. Said Board of managers is authorized to accept and receive gifts, donations legacies or other contributions for said fund and to administer same as a part of said fund or as may be directed by the donors, as providing benefits over and above those provided by this act.

Section 4. BOARD OF MANAGERS. There is hereby created a Board of Managers for the management and distribution of said Pension and Relief Fund, said Board to consist of three members: the president of the commission of such city, who shall be chairman of the Board of Managers, and two associate members, designated as "member number one" and "Member number two". "Member number one" shall within thirty days from the effective date of this act be appointed by the personnel board or civil service board having jurisdiction in such city, if there be such a board, otherwise said member shall be so appointed by the governing body of such city, and such member shall be appointed for a term of two years from the effective date of this act. At the expiration of his

term and every four years thereafter "member number one" shall be appointed by said authority for a term of four years. Within thirty days from the effective date of this act "member number two" shall be appointed from the employees of such city by a majority of the following named employees of such city, or the employees of such city whose duties correspond most nearly thereto, to-wit: superintendent of city parks, city health officer, superintendent of city streets, director of public libraries, city engineer, city attorney, city comptroller, senior judge of the Recorder's Court, and chairman of the zoning board. Said "member number two" shall be appointed for a term of four years from the effective date of this act. At the expiration of his first term, and every four years thereafter, "member number two" shall be appointed by said last named authority for a term of four years. Each of the associate members of said Board of Managers shall be a bona fide resident and a qualified voter of such city. Said Board of Managers shall meet at least once a month at the City hall of such city on the first Thursday in each month, and at such other times as the chairman of said Board shall call a special meeting. The Personnel Director of the Personnel Board of any city wide civil service system, if there be one in such city, otherwise the city clerk of such city shall be secretary of said Board and shall be present at every meeting of said Board, and keep a record of all proceedings of said Board and of all orders and decisions of said Board. The secretary of said Board and no member of said Board shall receive any salary or compensation for his services except "member number one", who shall receive ten dollars for each meeting, provided such member shall not be paid for more than two meetings in any calendar month. Two members of said Board shall constitute a quorum for the transaction of any and all business of said Board, and the affirmative vote of two members shall be necessary and sufficient to pass any motion or resolution. Said Board is empowered to make reasonable rules and regulations for the conduct of its business not inconsistent with the provisions of this act. Said Board shall have entire management of the Pension and Relief Fund created by this act, and shall direct the investment of moneys of said Fund not needed to meet the disbursements provided for in this act in bonds of the United States Government, the State of Alabama and the city for which said Board of Managers is serving; said Board shall receive, investigate and pass upon all applications for pensions and relief under this act, and its decision upon all matters of fact shall be final. Said Board is authorized to borrow money upon to the par value of securities held by it, and to pledge said securities for the payment of the money borrowed. No money shall be invested, paid out or disbursed to any one by the custodian of said Pension and Relief Fund except pursuant to order of said Board of Man-

agers. Any member of said Board may be removed by impeachment for corruption, malfeasance or misfeasance in office or habitual neglect of duty. In case there is a vacancy on said Board such vacancy shall be filled by the authority hereinbefore empowered to appoint.

Section 5. **DISABILITY RELIEF.** Any employee of such city after having served for five consecutive years or more, who shall become totally disabled, either physically or mentally, to perform his customary duties shall, after the continuance of such disability for sixty consecutive days, be paid monthly from the Pension and Relief Fund during the further continuance of such total disability an amount equal to forty per cent (40%) of the monthly salary of such employee at the time of the commencement of such disability. The disability relief herein provided for shall be paid by the custodian of said Fund upon the order of the Board of managers after application has been made to said Board by the employee or some one on his behalf, and after satisfactory proof has been made to the Board by a certificate from at least one licensed practicing physician in such city of such total disability. The Board shall have the power in its discretion to require the certificate of more than one such physician and such further proof as it may deem necessary. The Board may from time to time require additional certificates and other proof to determine whether such disability still exists.

Section 6. **RETIREMENT.** Upon, or at any time after the effective date of this act, any employee of such city who shall have reached the age of sixty years, and who shall have been in the service of such city for fifteen consecutive years or more, or for twenty-five years or more, the last five of which being consecutive, shall be entitled to voluntarily retire from the service and be paid a pension upon the terms and conditions hereinafter set out, and if such person after having become entitled to voluntarily retire, hereunder, shall be separated from the service of such city, voluntarily or involuntarily, he shall be entitled to a pension from said Fund to be computed upon the following basis: Forty per cent (40%) of the average monthly salary of such employee for the last five years preceding retirement, plus one-half of one per cent ($\frac{1}{2}\%$) for each year he has been in service of such city after September first, 1937; provided, no pension shall exceed the following schedule: In case said average monthly salary is two hundred dollars or less, the monthly pension shall not exceed fifty per cent (50%) of such monthly salary; where such average monthly salary is over two hundred dollars or not over three hundred dollars, the monthly pension shall not exceed forty-five per cent (45%) of such monthly salary; Any employee who on or after the effective date of this act shall have been in the service of such city

for twenty consecutive years or more, or for twenty-five years, the last five of which being consecutive, and who is involuntarily separated from the service of such city through no fault of his own involving moral turpitude, shall be entitled to a pension as herein provided, notwithstanding he may not have reached the age of sixty years; provided the Personnel Board or other agency governing tenure of service of employees of such city shall certify that such employee has not contributed by his own conduct to his separation from the city's service. Any employee who on or after the effective date of this act shall have been in the service of such city for thirty-five consecutive years or more shall, regardless of his age, be entitled voluntarily to retire from the service of such city and receive a pension as herein provided. No pension shall commence until the expiration of two years after September first, 1937, even though the applicant therefor may have become entitled thereto prior to such date. Pensions shall be paid monthly during the life of the employee. Upon the death of any employee who is receiving a pension or who is entitled voluntarily to retire or who is entitled to a pension under the provisions of this act, the widow of such employee shall during her life and so long as she remains unmarried be entitled to a monthly pension of fifty per cent (50%) of the pension which her husband was receiving or to which he was entitled at the time of his death; provided such widow was the lawful wife of such employee for fifteen years prior to the time of his separation from the service of such city. In the event any one is separated from the service of such city within two years after the effective date of this act, and who is entitled to a pension under any one of the foregoing provisions, there shall be deducted in equal installments from his monthly pension the aggregate amount that would have been deducted from his salary had he remained in the service of such city, at the salary he was last receiving, to the end of said two year period. Any benefits payable hereunder shall be reduced by the amount, if any, which the beneficiary shall receive from any public employment.

Section 7. RETURN OF CONTRIBUTIONS. Should any employee voluntarily retire from the service of such city or be discharged because of some fault of his own before becoming eligible for a pension hereunder there shall be refunded to him the full amount of the deductions from his salary paid into said Fund, without interest, less one-half of disability benefits paid to him under this act. Should any employee be involuntarily retired through no fault of his own involving moral turpitude, or die before becoming eligible for a pension the full amount of his contribution to said Fund, without interest, less one-half of disability benefits paid to him under this act, shall be returned to such employee or to his legal representative. The return of the contribution

to said Fund herein provided for shall be made on order of the Board after satisfactory proof of the amount of such contribution has been made to the Board.

Section 8. APPRAISAL OF FUND. At the end of each year from the effective date of this act the Board shall cause to be made an appraisal of the plan set up in this act, the funds on hand, and the liabilities of said Fund, both accrued and contingent. Whenever such appraisal shall show that the three per cent (3%) contribution from the salaries of the employees, plus the equivalent amount contributed by such city under the requirements of this act, plus all other revenues in said Fund, provide more or less funds than are necessary to meet the liabilities of said Fund under this act, then the contribution of the employees from their salaries and the contribution of the city shall be equally reduced or increased, as the case may be, to such amount as will in the sound judgment of the Board keep and maintain said Fund on a sound actuarial basis, provided said contributions shall not be increased above six per cent (6%). If it is found that the levy of 6% on each is not sufficient to pay the benefits herein provided, same must be ratably and proportionally decreased.

Section 9. EXEMPTION FROM TAXATION. No portion of said Pension and Relief Fund whether in cash or securities either before or after its distribution shall be subject to any state or municipal tax, nor shall the same be seized or held or in anywise subject to garnishment or levy of execution or attachment issued out of of any court of this state or any other state, nor shall the same be assigned. Neither the hiring, payment of benefits to nor retirement of any person nor any act of the Board of Managers or the City governing body shall give rise to any contractual or vested rights hereunder; but the Legislature reserves full power and right to amend or repeal any and every separate provision hereof.

Section 10. SEVERABILITY. Each section of this act, and every part of each section, are declared to be independent sections and parts of sections, and the holding of any section or part thereof to be void for any cause shall not affect the other sections or parts thereof; and it is now declared that the other sections or parts of sections would have been enacted regardless of any section or parts of sections which might be held void.

Section 11. LENDING CLAUSE. The Board of Managers shall have the right to lend any member of such Pension and Relief Fund such amounts of money not to exceed fifty (50%) of the total deductions from the salary or wages of such member which has been credited to him since the effective date of this Act, the Board of Managers shall make such rules and regulations regarding such loans as is in their discretion, to the best interests of such fund, and interest shall be charged at the rate of six (.06%) per annum.

Should any employee member owing the fund any borrowed money, discontinue his services with the City, the Board shall have the right to apply any funds to his credit in the fund to the payment of the loan of such employee.

Section 12. REPEALING CLAUSE. All laws or parts of laws inconsistent with or in conflict with this act are hereby expressly repealed.

Section 13. EFFECTIVE DATE. This act shall become effective upon approval of the Governor.

Approved September 21, 1939.

No. 513)

(H. 195—Segrest

AN ACT

To authorize, require and provide for payment out of any moneys not otherwise appropriated by the Legislature of the sum of Six Hundred (\$600.00) Dollars, for the relief of John W. Daniel.

WHEREAS, on to-wit, the 4th day of November, 1936, John W. Daniel was a citizen of Tuskegee, Macon County, Alabama, and held no official position as a deputy sheriff or as any other law enforcement officer of the County of Macon, or State of Alabama, and

WHEREAS, on said date he did voluntarily organize a party who sought to apprehend one Jerry Chappell, who had escaped after shooting and killing one James J. Davis, a white man, at Shorter, Alabama, and while assisting the sheriff and his duly constituted deputies to apprehend said Chappell was wounded by said Chappell by a pistol shot in the chest and arm, resulting in serious and permanent injuries to him and the necessary expenditure of large sums for hospitalization and medical expense during his convalescence from said wounds, and

WHEREAS, the said Chappell not having been convicted and placed in the custody of the Convict Department at the time of said affair, the State Board of Adjustment was and is without jurisdiction to make an award to compensate John W. Daniel, on account of the limitations upon the jurisdiction of said Board contained in Act No. 173, General Acts, Extra Session, 1936 - 37, page 205. And, therefore, there has been no relief afforded the said John W. Daniel for his voluntary attempt to apprehend a dangerous killer at large against the peace and dignity of the State of Alabama.

Be it Enacted by the Legislature of Alabama:

1. That the State Comptroller on the passage and approval of this Act be and is hereby authorized and required to draw his warrant from the State Treasurer in favor of John W. Daniel for

the sum of Six Hundred (\$600.00) Dollars, which shall be paid by said Treasurer out of funds of the State Treasury not otherwise appropriated.

Approved September 21, 1939.

No. 514)

(H. 364—Smyer

AN ACT

To consent for the State of Alabama through its Department of Conservation to cooperate with the United States Department of Agriculture in the restoration of wildlife in compliance with the Pittman-Robertson Act, said act being an Act of Congress entitled an Act "To provide that the United States shall aid the States in wildlife restoration projects, and for other purposes" and approved September 2, 1937, and also consent of the State of Alabama through its Department of Conservation to cooperate with other Federal agencies in the restoration, and/or rehabilitation of game, fish, forests, parks and/or historical sites and monuments.

Be it Enacted by the Legislature of Alabama.

Section 1. Consent of the State of Alabama through its Department of Conservation is hereby given to cooperate with the United States Department of Agriculture in the restoration of wildlife in compliance with the Pittman-Robertson Act.

Section 2. Consent of the State of Alabama through its Department of Conservation is also given to cooperate with other Federal agencies in the restoration and/or rehabilitation of game, fish, forests, parks and/or historical sites and monuments.

Section 3. This Act shall become effective on its passage and approval by the Governor.

Approved September 19, 1939.

No. 515)

(H. 412—Allen

AN ACT

To amend Section 6289 of the Code of Alabama of 1923.

Be it Enacted by the Legislature of Alabama:

Section 1. That Section 6289 of the Code of Alabama of 1923 be amended to read as follows: "Section 6289—EXAMINATION OF BANKS. Every bank carrying on a banking business in the State other than national banks shall be subject to the supervision and inspection of the superintendent of banks and the regulations and supervision thereof. The superintendent of banks shall either personally, or by competent examiner appointed by him, visit and examine every corporation doing a banking business,

and every individual banker doing a banking business in and under the laws of the State of Alabama, at least twice in each year; provided however that only one such annual examination shall be required of such banking institutions, deposits in which are insured by the Federal Deposit Insurance Corporation or its successor, if any. On every such examination, inquiry shall be made as to the conditions and resources of the corporation (or the individual or individuals in case of individual bankers) the mode of conducting and managing the affairs of the bank, the action of its directors (in case of a corporation), the investment of the funds of the bank, the safety and prudence of the management of the bank, and whether the requirements of its charter and of law have been complied with in the administration of the affairs of the bank, and as to such other matters as the superintendent of banks may prescribe. In addition, the superintendent of banks shall in like manner examine or cause to be examined into the affairs of every corporation and individual banker doing a banking business whenever in the judgment of the superintendent the management and condition of the bank is such as to render an examination of its affairs necessary or expedient, or whenever in the opinion of the superintendent the interest of the public demands an examination."

Section II. This act shall become effective upon its passage and approval by the Governor.

Approved September 19, 1939.

No. 516)

(H. 430—Hodo

AN ACT

To provide for the dissolution of any building and loan association which with the approval of the Building and Loan Commissioner has sold its assets, or may hereafter sell its assets with the approval of the Commissioner of Building and Loan, and to provide for the disposition of any funds not distributed prior to such dissolution.

Be it Enacted by the Legislature of Alabama:

Section 1. Whenever any building and loan association incorporated under the laws of this State has with the approval of the Building and Loan Commissioner heretofore sold or may hereafter sell, with the approval of the Commissioner of Building and Loan, its assets and distributed the proceeds thereof among its members and stockholders and which has been unable to distribute all of its assets among all of its members and stockholders because of death, mental or other incapacity, inability to locate, or other similar reasons, the directors of such building and loan association shall within one year after the sale of its assets, or within one year after the effective date of this Act if the assets were sold prior

thereto, report or cause to be reported under oath to the Commissioner of Building and Loan, setting out the facts of such disposition of its assets and shall as a part of such report furnish a list of its members and stockholders who have been paid in full or who have been paid their pro rata shares of the assets, and a list of the members and stockholders who have not been so paid, and shall at the same time remit to the Commissioner of Building and Loan all amounts due or belonging to such members and stockholders who have not received their pro rata shares of the assets.

Section 2. Upon receipt of such report the Commissioner of Building and Loan, if satisfied as to the correctness of the facts set out therein, shall apply to the Circuit Court in Equity of the county where the principal office of such association is located, praying the dissolution of such association. The association shall be made party respondent to such petition. Service of such petition shall be upon the president or other executive officer of such association. It shall not be necessary to make any of the members or stockholders parties to the proceedings.

Section 3. The Circuit Court in Equity shall hear such petition in accordance with its usual rules and procedure and if upon hearing the same the court shall grant the prayer of such petition, it shall make and enter an order dissolving such building and loan association and at the same time shall order that any funds belonging to any stockholders or members which have been unclaimed or undistributed and which have been paid to the Commissioner of Building and Loan, be held by the Commissioner of Building and Loan for a period of six months, to be deposited by him in one or more State banks to the credit of the Commissioner of Building and Loan in his official capacity, in trust for the several members and stockholders of the dissolved association who have not received their pro rata shares of the assets, and the Commissioner of Building and Loan may pay over the money so held by him to the persons respectively entitled thereto upon being furnished satisfactory evidence of their right to the same.

Section 4. After the expiration of six months, the Commissioner of Building and Loan shall certify to the Treasurer of the State a complete list of funds remaining in his hands uncalled for which had been left in his hands in his official capacity in trust for the members and stockholders of such dissolved association, and shall at the same time transmit to the Treasurer such funds which he has so held in trust for six months. A copy of such certificate shall also be filed with the State Comptroller, who shall make a record thereof.

Section 5. Any member or stockholder of such dissolved association who has not been paid the amount standing to his credit as thus certified to the State Treasurer, may apply to the Commis-

sioner of Building and Loan for the amount due him after it has been certified into the treasury of the State. Such member and stockholder shall make an affidavit and offer proof of his identity and of the amount due him by the dissolved association. When satisfied as to the correctness of the claim and of the identity of the proof, the Commissioner of Building and Loan shall approve the claim and forward to the Comptroller, who shall audit the same, and if found correct, issue his warrant payable to the member or stockholder for the amount shown by the records to be due the member or stockholder, which warrant shall be paid by the Treasurer.

Section 6. Any amounts remaining in the treasury for a period of ten years after such dissolution shall escheat to the State and be paid into the General Fund of the State treasury.

Section 7. If any paragraph, sentence, or portion of this Act be held invalid, such holding shall not affect any other paragraph, sentence, or portion, but shall apply only to such paragraph, sentence, or portion specifically invalidated.

Section 8. The provisions herein are not in conflict with but are made in addition to any other method of dissolution authorized by law.

Section 9. This Act shall be effective immediately upon its passage.

Approved September 19, 1939.

No. 517)

(H. 438—Smyer

AN ACT

To amend Sections 8970 and 8971 of the Code of Alabama of 1923, so as to provide for the trial of contested claims in the court having jurisdiction of the administration of the estate pending in said court.

Be it Enacted by the Legislature of the State of Alabama:

That Sections 8970 and 8971 of the Code of Alabama of 1923 be amended so as to read as follows: Section 8970. When a claim against the estate of a decedent has been duly presented, the limitation for the commencement of suit thereon is suspended until the personal representative, or heir, or devisee of such decedent shall, by notice in writing, dispute the validity of such claim in whole or in part. Section 8971. The personal representative of the estate of a decedent may give notice in writing to the claimant, or anyone having a beneficial interest in a claim against the estate, that such claim is disputed in whole or in part, if in part specifying the part disputed; thereupon the Judge of the court having jurisdiction of the administration of the estate shall, on written application of either the personal representative or the claimant, hear and

pass on the validity of such claim, or part thereof, first giving ten days notice of such hearing to the interested parties. Either party may appeal within thirty days from the rendition of judgment on any such claim, such appeal to be made in the manner provided by law for appeals from the court in which such estate is being administered. If the claimant in such proceeding shall fail to recover upon the disputed part of such claim, he shall be taxed with the costs thereof. This section shall not apply to claims against estates declared insolvent.

Approved September 21, 1939.

No. 518)

(H. 494—Norman of Bullock

AN ACT

To appropriate the first \$400,000.00 of any surplus over and above \$750,000.00 in the State Treasury to the credit of the General Fund, after providing for the payment of all appropriations now or hereafter made payable from said fund, for each of the fiscal years ending September 30, 1939, September 30, 1940, September 30, 1941, September 30, 1942 and September 30, 1943, to provide a retirement fund for teachers in the State supported schools and colleges, to be expended in accordance with such statutes and regulations as may then be in force relating to the expenditure of such fund.

Be it Enacted by the Legislature of Alabama:

Section 1. That the first \$400,000.00 of any surplus over and above \$750,000.00 in the State Treasury to the credit of the General Fund, after providing for the payment of all appropriations now or hereafter made payable from said fund, for each of the fiscal years ending September 30, 1939, September 30, 1940, September 30, 1941, September 30, 1942 and September 30, 1943, is hereby appropriated and shall be transferred permanently to a retirement fund for teachers in the State supported schools and colleges to be expended in accordance with the statutes and regulations then existing relating to the expenditure of such Teachers' Retirement Fund.

Section 2. That at the close of each of the fiscal years ending September 30, 1939, September 30, 1940, September 30, 1941, September 30, 1942 and September 30, 1943, the Comptroller is authorized and required to draw his warrant for the first \$400,000.00 in the State Treasury to the credit of the General Fund over and above \$750,000.00, after providing for the payment of all appropriations now or hereafter made payable from said fund, payable to the State Treasurer to be covered by him into the State Treasury to the credit of the Teachers' Retirement Fund.

Section 4. That all laws and parts of laws, general, special or local, in conflict with the provisions of this Act are hereby expressly repealed.

Section 5. That this Act shall become effective immediately upon its passage and approval by the Governor.

Approved September 21, 1939.

No. 519)

(H. 512—Hodo

AN ACT

To cover into the State Treasury to the credit of the General Fund any or all moneys now in the "Special Trust Fund" created pursuant to the provisions of an Act entitled "An Act in reference to and to further provide for the general revenue of the State of Alabama," approved October 15, 1932, which moneys accrued to said fund pursuant to the provisions of said act.

Be it Enacted by the Legislature of Alabama:

Section 1. That any or all moneys in the "Special Trust Fund" created pursuant to the provisions of an Act entitled "An Act in reference to and to further provide for the general revenue of the State of Alabama," approved October 15, 1932, which moneys accrued to said fund pursuant to the provisions of said act, be and the same are hereby covered into the State Treasury to the credit of the General Fund, and the State Comptroller is hereby authorized and directed to draw his warrant on said "Special Trust Fund" for any or all moneys therein payable to the State Treasurer to be covered by him into the State Treasury to the credit of the General Fund.

Section 2. That all laws and parts of laws, general, special or local, in conflict with the provisions of this Act are hereby expressly repealed.

Section 3. That this Act shall become effective immediately upon its passage and approval by the Governor or its otherwise becoming a law.

Approved September 21, 1939.

No. 520)

(H. 528—Stone

AN ACT

For the relief of the Creola Lumber Company, by confirming in the said Creola Lumber Company, a corporation, organized under the laws of Alabama, of Creola, Mobile County, Alabama, the title to the following described lands in Mobile County, Alabama, towit: S W $\frac{1}{4}$ of the S E $\frac{1}{4}$ and E $\frac{1}{2}$ of the S W $\frac{1}{4}$ of Section 14, Township 1 South, Range 1 West; and W $\frac{1}{2}$ of S W $\frac{1}{4}$ of Section 26, Township 1 South, Range

- 1 West, which lands are known and called "swamp and overflow" lands, but which lands are not claimed by the Alabama Insane Hospitals.
- WHEREAS, the S W $\frac{1}{4}$ of the S E $\frac{1}{4}$ and E $\frac{1}{2}$ of the S W $\frac{1}{4}$ of Section 14, Township 1 South, Range 1 West; and W $\frac{1}{2}$ of S W $\frac{1}{4}$ of Section 26, Township 1 South, Range 1 West, is what is known as "swamp and overflow" lands, and
- WHEREAS, the said S W $\frac{1}{4}$ of the S E $\frac{1}{4}$, Section 14, was sold by the State of Alabama to Z. T. Windham on September 2, 1871, as shown by the records in the office of the Secretary of the State of Alabama, under certificate #205 and the E $\frac{1}{2}$ of the S W $\frac{1}{4}$ of Section 14, was sold to P. U. Chestang on September 2, 1871, but that the patents which were issued for said S W $\frac{1}{4}$ of S E $\frac{1}{4}$ and E $\frac{1}{2}$ of S W $\frac{1}{4}$ of said Section 14, Township 1 South, Range 1 West, were what were known as Chardavoyne patents, that by mense conveyances, Creola Lumber Company acquired the title to said land in Section 14, and Creola Lumber Company went into possession of said land about the year of 1900 and has paid the taxes on said land ever since said date, namely, 1900; that during all of said period, Creola Lumber Company has been in the peaceable possession of said property, claiming to own the same, and
- WHEREAS, the West Half of the S W $\frac{1}{4}$ of Section 26, Township 1 South, Range 1 West, was acquired under a Chardavoyne patent by Susan M. Dykes, on October 6, 1871, certificate #279 and said property was assessed to said Susan M. Dykes for the tax year 1880, and sold for taxes and purchased by the State of Alabama, and the State by its Auditor, John Purifoy, conveyed the said W $\frac{1}{2}$ of the S W $\frac{1}{4}$ of said Section 26, to J. E. Buck on January 7, 1896, and that J. E. Buck conveyed the said land to the Creola Lumber Company on February 27, 1901, and that Creola Lumber Company immediately went into possession of said land and has been in the peaceable possession of said land and has paid taxes upon the said land since 1901, and
- WHEREAS, the Creola Lumber Company has obtained and had recorded in Deed Book 203 N.S., Page 245 of the Probate Records of Mobile County, Alabama, a deed from the Alabama Insane Hospitals, conveying to the said Creola Lumber Company the above described land in said Section 14, and in said Section 26, Township 1 South, Range 1 West, and
- WHEREAS, the title to the said Creola Lumber Company is now held insufficient by attorneys for a prospective purchaser of said land from Creola Lumber Company, by reason of the fact that the said land is "swamp and overflow" lands and has never been patented by the State of Alabama, to the Alabama Insane Hospitals, although the Alabama Insane Hospitals have conveyed the land to the said Creola Lumber Company.
- WHEREAS, in equity and justice, the State of Alabama is estopped to claim title to said land, and
- WHEREAS, in equity and justice the State of Alabama ought to confirm the title of the Creola Lumber Company as it has paid taxes upon the said lands to the State of Alabama for almost 40 years. Now Therefore,

Be it Enacted by the Legislature of Alabama,

Section One: That the title of Creola Lumber Company to the SW $\frac{1}{4}$ of the SE $\frac{1}{4}$ and E $\frac{1}{2}$ of the S W $\frac{1}{4}$ of Section 14, Township 1 South, Range 1 West; and W $\frac{1}{2}$ of S W $\frac{1}{4}$ of Section 26, Township 1 South, Range 1 West, be and the same hereby is, confirmed, ratified and approved.

Section Two: Be it further enacted, that any right, title and interest of the State of Alabama in said land be, an it hereby is, granted to the said Creola Lumber Company.

Section Three: That if any Section of this act is held to be invalid or unconstitutional, it shall not effect any other Section.

Approved September 21, 1939.

No. 522)

(H. 640—Brown of Covington

AN ACT

To provide for a public corporation for the purpose of assisting county and city boards of education to pay teachers' salaries and other current expenses when the same are due; to prescribe its powers and duties; and to authorize said corporation to borrow money in anticipation of the proceeds of the Minimum Program Fund appropriation and to issue warrants or notes as evidence of the same and to provide for the payment of the principal and interest of said warrants from the Minimum Program Fund and to give the State Board of Education power to authorize the corporation to pledge the proceeds of the Minimum Program Fund appropriation for payment of principal of and interest on warrants and notes issued under the provisions of this act.

Be it Enacted by the Legislature of Alabama:

Section 1. That the Director of the State Department of Finance, the Commissioner of the State Department of Revenue and the State Superintendent of Education may become a corporation with the power and authority herein defined by proceeding according to the provisions of this Act.

Section 2. To become a corporation the said three persons or the successor or successors to their functions and duties and the Governor shall present to the Secretary of State of Alabama an application signed by them which shall set forth: (a) The name, official designation and official residence of the applicants, together with a certified copy of the commission evidencing their right to office, the date and place of induction into and taking oath of office, and that they desire to become a Corporation under this Act; (b) The term of office of the applicants, and the place where, if any, the official commission of applicants is kept of record; (c) The name which is proposed for the corporation. The location of the principal office of the proposed corporation shall be Montgomery, Alabama. The declaration shall be subscribed and sworn to by each of the applicants before an officer authorized by the laws of the State of Alabama to take and certify oaths, who shall certify upon the declaration that he personally knows the applicants and believe them to be the officers as asserted in the declaration, and that they each subscribed and swore thereto in the officer's presence. The Secretary of State shall examine the declaration and if he finds

that the name proposed for the Corporation is not identical with that of a person or of any other corporation in this State, or so nearly similar thereto as to lead to confusion and uncertainty, he shall receive and file the declaration, and shall record it in an appropriate book of record in his office.

Section 3. When the declaration has been made, filed and recorded, as herein provided, the applicants shall constitute a corporation under the name proposed in the declaration; the Secretary of State shall make and issue to the applicants a certificate of incorporation, pursuant to this act, under the seal of the State and shall record the same with the declaration.

Section 4. The corporation under this Act shall have the following powers and such as shall be incidental or necessary to the discharge thereof in corporate form; (a) To have succession by its corporate name for twenty years; (b) To sue and be sued and defend, and to make and use a corporate seal and to alter the same at pleasure; (c) To borrow money and to issue notes or warrants and to pay interest on the same and to pledge the proceeds of appropriations to secure the payment of money received by such corporation in accordance with the provisions of this act; (d) To wind up and dissolve itself, or be wound up and dissolved in the manner in this act provided.

Section 5. The purpose of the corporation shall be to assist local boards of education to pay teachers' salaries and other current expenses as the same shall fall due by borrowing money in anticipation of the proceeds of the Minimum Program Fund appropriation, and by depositing said funds borrowed to the credit of the Minimum Program Fund in order that the Minimum Program Fund may be disbursed at the time or times during the fiscal year when it is most needed.

Section 6. Beginning October 1, 1939, and in each fiscal year thereafter the corporation shall have the power to borrow money and issue interest bearing notes or warrants as evidence of the same, and to pledge the proceeds of the Minimum Program Fund appropriation for that fiscal year during which warrants or notes are issued to secure the payment of money received by said corporation provided that all such notes and warrants issued in any fiscal year shall be payable from the proceeds of the Minimum Program Fund appropriation for that fiscal year. The State Board of Education shall have the power to authorize the corporation to pledge the proceeds of the Minimum Program Fund appropriation for payment of the principal of and interest on warrants and notes issued under the provisions of this act. It shall not be necessary for the State Board of Education to give a separate authorization for each individual issue of notes or warrants, but one authorization during each fiscal year shall be sufficient to enable the corpora-

tion to pledge the proceeds of the Minimum Program Fund for all notes or warrants issued during that fiscal year according to the provisions of this act. The principal and interest of all such warrants or notes issued in any fiscal year shall constitute a prior lien on the Minimum Program Fund appropriation for that fiscal year. The total amount of the outstanding principal of said notes and warrants at any time during any fiscal year shall not exceed forty per cent of the total Minimum Program Fund appropriation for that fiscal year, nor shall the total outstanding principal of and interest on warrants and notes issued by the corporation at any time exceed ninety per cent of the remaining unpaid Minimum Program Fund appropriation for that fiscal year.

Section 7. The principal of and interest on all warrants or notes issued under the provisions of this act shall be payable solely from the proceeds of the Minimum Program Fund appropriation and in order to secure the payment of said warrants or notes, the State Superintendent of Education shall not make requisition on the State Comptroller and the State Comptroller shall not issue warrants disbursing any funds available in the Minimum Program Fund to local boards of education at any time during any fiscal year if the principal of and interest on said outstanding warrants and notes exceeds ninety per cent of the balance of the unpaid Minimum Program Fund appropriation for that fiscal year.

Section 8. On or before the twentieth of each month the State Superintendent of Education shall submit to the corporation in writing an estimate of the amount of money needed to be borrowed by the corporation for the purpose of assisting county and city boards of education to pay teachers' salaries and other current expenses as the same shall fall due and the corporation shall have the authority to borrow money not in excess of the amount so estimated by the State Superintendent of Education subject to the provisions of this act. All money borrowed by said corporation shall be deposited in the State Treasury to the credit of the Minimum Program Fund and apportioned to local boards of education in accordance with the laws of this State.

Section 9. During the time the principal of or interest on warrants or notes issued under the provisions of this act remain outstanding the procedure to be followed in disbursing the Minimum Program Fund shall be as follows: (a) On or before the twentieth of each month the corporation shall file statements with the State Comptroller and the State Treasurer setting forth the principal of and interest on all outstanding notes or warrants issued by the corporation; (b) On or before the twentieth of each month the corporation shall instruct the State Superintendent of Education as to the disposition of funds available in the Minimum Program Fund appropriation setting forth the amount of said available funds to

apportion to local boards of education and the amount to apply to the payment of principal and interest upon outstanding notes or warrants issued by the corporation and thereupon the State Superintendent of Education shall make requisition on the State Comptroller in accordance with the instructions of the corporation provided, however, that the State Superintendent of Education shall not make requisition on the State Comptroller in favor of local boards of education and the State Comptroller shall not issue warrants disbursing any of the Minimum Program Fund to local boards of education nor shall the State Treasurer cash any warrants drawn in favor of local boards of education on the Minimum Program Fund at any time if the outstanding principal of and interest on warrants and notes issued by the corporation exceeds ninety per cent of the unpaid balance of the Minimum Program Fund appropriation for that fiscal year.

Section 10. The President of said corporation shall be the Director of the State Department of Finance and the Vice-President and Secretary shall be selected and designated by the members of the corporation.

Section 11. No officer of the corporation shall draw any additional salary on account of services rendered in connection with said corporation.

Section 12. Should any applicant or incorporator die, or his term of office expire or his office become vacant for any reason before the dissolution of the corporation, his successor or successors in office shall take his place and official position as a member of said corporation.

Section 13. There shall be no fees paid to the Secretary of State for any work in connection with the incorporation or dissolution of the corporation.

Section 14. Any corporation under this act may be dissolved by the applicants or their successors filing with the Secretary of State their application therefor, which shall be subscribed, sworn to and certified as in the case of a declaration for incorporation. Upon the filing of said certificate, the corporation shall cease. The Secretary of State shall record the application for dissolution and shall make and issue under the seal of the State his certificate that the corporation is dissolved, and shall record the certificate with the application for dissolution, but such dissolution shall not affect adversely rights attaching under existing contracts; and the corporation shall be deemed to continue for suit or defense.

Section 15. Any record kept or certificate issued in pursuance of this Act, or a copy of any such record certified to be true by the legal custodian thereof, shall be received in evidence in all courts and shall be prima facie evidence of the facts therein received, or thereby shown.

Section 16. The corporation may sell its securities at public or private sale. The State Treasurer shall record all warrants or notes issued by the corporation. Warrants or notes issued by the corporation and the interest thereon shall be free from taxation in the State of Alabama. Warrants or notes issued by the corporation shall be eligible as security for deposits of state funds. Purchaser of warrants or notes issued by the corporation must pay for securing any legal opinion desired by the purchaser.

Section 17. No warrant or note issued by the corporation shall be the debt of the State of Alabama, nor shall the State of Alabama or its general faith and credit, be pledged to the payment of said obligations and said obligations shall not in any event be deemed or considered a debt or an obligation of the State of Alabama, but the purchaser or assignee or holder of any such warrants or notes issued by said corporation shall look solely to funds actually appropriated to the Minimum Program Fund for the payment of the principal of and interest on said warrants or notes.

Section 18. The securities issued by said corporation shall be signed by its President and attested by the Secretary selected by said corporation who shall affix to such instruments the official seal of the corporation.

Section 19. This Act shall take effect immediately upon its passage and approval.

Section 20. Should any provision of this Act be declared unconstitutional, it shall not affect the remaining part of the Act.

Approved September 21, 1939.

No. 523)

(H. 689—Toomer

AN ACT

To amend Section 17 of the Department of Conservation Act of 1939, approved March 14, 1939.

Be it Enacted by the Legislature of Alabama:

Section 1. That Section 17 of the Department of Conservation Act of 1939, approved March 14, 1939, be and the same is hereby amended to read as follows: Section 17. CONSOLIDATION OF FUNDS. The Game and Fish Fund, the Forestry Fund, the Oyster Protection Fund, any funds or moneys of the Alabama Oyster Commission or any corporation incorporated pursuant to said Alabama Oyster Commission Act (except such funds or moneys as may have been heretofore specifically pledged and set aside for the payment of bonds issued heretofore) and all other funds and moneys (whether special or earmarked or not) under the control or management of or used for or by any of the departments, boards, bureaus, commissions, agencies or offices of the State, the functions and duties of which have been transferred to and conferred

upon the Department of Conservation by this Act, are hereby consolidated and combined into one fund, which shall be known as the Conservation Fund. All of such funds and moneys shall be transferred and delivered by the officers now having charge thereof to the State Treasurer forthwith. Each officer or employee charged with the duty of collecting any such funds or moneys shall remit all collections directly to the State Treasurer or deposit the same in a duly approved State depository to the credit of the Conservation Fund, as provided by law; and an additional duplicate deposit slip or receipt shall be furnished by the State Treasurer or such depository and forwarded to the Director of Conservation. All salaries and other expenses of the Department of Conservation shall be paid from the Conservation Fund but only in the same manner as the salaries and expenses of other departments of the State are paid, and all expenditures from the Conservation Fund shall be subject to the provisions of any law relating to the budgeting, control or allotment of appropriations and expenditures. Nothing in this Act, however, shall require or permit the diversion of license fees heretofore or hereafter to be paid by hunters or fishermen for any purpose other than the administration of the Division of Game and Fish and Seafoods, and such fees shall be used solely for the purpose of such administration. Nothing in this Act shall require the diversion of any funds from any particular purpose if the effect of such diversion would penalize the State in retaining or securing any Federal funds or Federal assistance. Any unexpended balance remaining in the Conservation Fund at the end of any fiscal year (except license fees paid by hunters or fishermen) shall be transferred to the General Fund. Nothing in this Act, however, shall require or permit the diversion of either private, county, or Federal contributions for fire protection purposes; and there is hereby created in the State Treasury a special fund to be designated as the "Forest Protection Fund." The Director of Conservation and the State Forester shall deposit in the said Forest Protection Fund all private and county fire protection contributions and all Section 2 Clarke-McNary Law reimbursement funds paid by the Federal Government. All moneys deposited to the credit of this fund shall be held for the benefit of and for expenditure by the Division of Forestry in the Department of Conservation for forest fire protection purposes, and shall not be diverted to any other general or special fund.

Section 2. All laws and parts of laws, general, special or local, in conflict with the provisions of this act be and the same are hereby repealed.

Section 3. That this act shall go into effect upon its passage and approval by the Governor or its otherwise becoming a law.

Approved September 21, 1939.

No. 524)

(H. 732—Allen

AN ACT

To Amend Section 8484 of the Code of Alabama of 1923:

Be it Enacted by the Legislature of Alabama:

Section 1. That Section 8484 of the Code of Alabama of 1923 be amended to read as follows: "Section 8484. SOLVENCY OF SOCIETY: HOW DETERMINED. The valuation herein provided for shall not be considered or regarded as a test of the financial solvency of the Society, but each Society shall be held to be legally solvent so long as the cash in its possession is equal to or in excess of all its liabilities which are due and unpaid. A report of such valuation and an explanation of facts concerning the condition of the Society thereby disclosed shall be printed and mailed to each beneficiary member of the Society not later than June 1st. of each year, or, in lieu thereof, such report of valuation and showing of the Society's condition as thereby disclosed may be published in the Society's official paper, and the issue containing the same mailed to each beneficiary member of the Society."

Section 2. This Act shall be effective upon its passage and approval by the Governor.

Approved September 19, 1939.

No. 525)

(H. 734—Allen

AN ACT

To Amend Section 8496 of the Code of Alabama of 1923:

Be it Enacted by the Legislature of Alabama:

Section 1. That Section 8496 of the Code of Alabama of 1923 be amended so as to read as follows: "Section 8496. QUO WARRANTO PROCEEDINGS AGAINST SOCIETY.—Whenever after examination the Superintendent of Insurance is satisfied that any domestic society has failed to comply with any provision of this Article, or is exceeding its powers, or is not carrying out its contract in good faith, or is insolvent, or is transacting business fraudulently or whenever any domestic society, after the existence of one year or more, shall have a membership of less than four hundred, or shall determine to discontinue business, the Superintendent of Insurance may submit to the Attorney General a certified copy of such examination, with his recommendation thereon, and if in the opinion of the Attorney General the facts and circumstances warrant, the Attorney General shall thereupon commence an action in quo warranto in a court of competent jurisdiction, and such court shall

thereupon notify the officers of such society of a hearing, and if it shall then appear that such society should be closed, said society shall be enjoined from carrying on any further business and some person shall be appointed receiver of such society, and shall proceed at once to take possession of the books, papers, money and other assets of the society, and shall forthwith, under the direction of the court, proceed to close the affairs of the society and to distribute its funds to those entitled thereto. Neither the Director of the Department of Commerce, Superintendent of Insurance, Attorney General, or any other official or employee of the State, shall be in any way liable in damages, or to a suit or action for damages, by reason of having ordered, made or participated in the making of any such examination, or by reason of any action recommended by him to be taken upon the basis of any such examination, or by reason of any official finding, opinion, judgment or recommendation upon or with respect to such examination, or by reason of the institution of any such action in quo warranto, or by reason of the performance of any official duty imposed upon him under the provisions of this article."

Section 2. If any provision of this Act is declared to be invalid or unconstitutional for any reason, or invalid in its application to any person or circumstance, such holding shall not affect the validity of the remaining provisions of such Act.

Section 3. This Act shall become effective upon its passage and approval by the Governor.

Approved September 19, 1939.

No. 526)

(H. 738—Welch

AN ACT

To better provide for the election, selection, and appointment of Judges of inferior courts created in lieu of Justices of the Peace, and other like, or similar courts by whatever name called.

Be it Enacted by the Legislature of Alabama as Follows:

Section 1. The Judge or Judges of each of the several inferior courts of this State created in lieu of Justices of the Peace as well as the Judge or Judges of each like, or similar court by whatever name called, the Judge or Judges of which are now required by law to be elected by the voters of less than the whole of the territory over which such court has and exercises jurisdiction shall hereafter be elected at the time now provided by law for such elections by the voters of the entire territory over which such court has and exercises jurisdiction.

Section 2. All laws and parts of laws in conflict herewith are hereby expressly repealed.

Section 3. This Act shall become effective upon its approval by the Governor or its otherwise becoming a law. This Act shall not affect the term of office of any Judge now in office, but all successors to such judges shall be elected by the qualified voters as in this Act provided, and the election laws of this State with respect to electing other officials shall in all things apply to elections of the judges affected by this Act. The provisions of law with respect to appointments of the Judges affected by this Act in cases of vacancy by death, resignation, impeachment, or from other cause shall not be effected by this Act, neither shall this Act apply to any office the occupants of which are now under the law selected, appointed, or elected, by a Board, Commission, or by the Judges of a Circuit or a County.

Section 4. The provisions of this act shall apply only to counties which have, according to the last federal census, a population of 400,000 or more, or which may come into that population class by any subsequent federal census.

Approved September 21, 1939.

No. 527)

(H. 771—Hodo

AN ACT

To Amend Sections 8324, 8334, 8335, 8336, and 8337 8347 of the Code of Alabama of 1923:

Be it Enacted by the Legislature of Alabama:

1. That Section 8324 of the Code of Alabama is amended to read as follows: *Section 8324*—The Director of Commerce, with the approval of the Governor, may also appoint the following to assist him in the discharge of the duties of the Bureau of Insurance: A chief clerk, whose salary shall not exceed \$1,800.00 per annum; a license clerk and stenographer, whose salary shall not exceed \$1,500.00 per annum; a record and filing clerk, whose salary shall not exceed \$1,200.00 per annum; the salaries of the clerks herein named to be paid as the salaries of other state officials and employees are paid. The Director of Commerce, with the approval of the Governor, may also appoint an actuary, whose salary shall not exceed \$4,800.00 per annum, and may also appoint one or more examiners or accountants, at salaries not to exceed \$3,000.00 each per annum, to assist in the examination of insurance companies, the valuation of insurance policies, and the examination of other corporations under the supervision of the Bureau of Insurance. The salaries of such actuary and the examiners or accountants, and all other expenses necessary and incident to carrying out the duties of said actuary and examiners or accountants, shall be paid as the

salaries of other state officials or employees are paid, and the other said necessary expenses shall be paid as is now provided by law; provided, however, that the salaries of the said actuary and the said examiners or accountants, and all expenses incurred incident to the carrying out of their duties shall be paid out of a special fund to be set up by the State Treasurer from all funds derived from funds paid into the State Treasury by any corporation, association or society for the cost and expenses for examinations of said corporations, associations, or societies as is now provided by law for such examinations. The actuary and each such examiner or accountant shall give bond in the sum of Ten Thousand (\$10,000.00) Dollars; and the chief clerk shall give bond in the sum of Five Thousand (\$5,000.00) Dollars, each such bond to have some authorized guaranty or surety company as surety thereon, and each such bond to be approved by the Governor and filed with the Secretary of State. The premium on the bonds of the actuary and examiners or accountants shall be paid out of the said special fund *hereinabove provided* for, and the premium on the bond of the chief clerk *hereinabove provided* for the chief clerk shall be paid out of the general appropriation of the Department of Commerce.

2. That Section 8334 of the Code of Alabama is amended to read as follows: *Section 8334*.—At least once in every three years the Superintendent of Insurance shall personally or by the actuary or such examiners or accountants as he may appoint, visit each domestic insurance company and examine its affairs, especially as to its financial condition and ability to fulfil its obligations, and to determine whether it has complied with the law. He shall also make an examination of any such company whenever he deems it prudent so to do, or upon request of five or more of the stockholders or five or more persons pecuniarily interested therein, who shall make affidavits of their beliefs, with specifications of their reasons therefor, that such company is in an unsound condition, if in the opinion of the Superintendent of Insurance such examination is necessary.

3. That Section 8335 of the Code of Alabama is amended to read as follows: *Section 8335*.—Whenever he deems it prudent for the protection of policyholders in the State, and believes that any company authorized to do business in this State has violated any of the provisions of this Article, he shall, in like manner, visit and examine, or cause to be visited and examined by the actuary or examiners or accountants, or by examiners or accountants as he may deem necessary to appoint for that purpose, any foreign insurance company applying for admission or already authorized to do business by agent in this State.

4. That Section 8336 of the Code of Alabama be amended to read as follows: *Section 8336*.—Any domestic company examined

under the provisions of this Article shall pay to the State Treasurer, upon being billed by the Bureau of Insurance of the Department of Commerce, actual railroad fare or other traveling expenses actually incurred, and in addition hotel bills and other actual and necessary expenses of the person or persons making such examination, not to exceed a maximum of three dollars (\$3.00) per day per person for such expenses, upon demand of the Superintendent of Insurance supported by an itemized statement of such expenses incurred by each such person, duly sworn to by such person. All such remittances made by such insurance company to the office of the Superintendent of Insurance shall be covered into the State Treasury.

5. That Section 8337 of the Code of Alabama is amended to read as follows: *Section 8337*—When the Superintendent of Insurance deems it necessary to examine any insurance company organized under the laws of any other state or country, and herein designated and called a foreign company, such examination shall be made by the Superintendent of Insurance, or the actuary, or the examiners or accountants, or by examiners or accountants as he may deem necessary to appoint. Any foreign company examined under the provisions of this Article shall pay to the office of the State Treasurer the actual railroad fare involved and in addition hotel bills and other actual and necessary expenses of the person or persons making such examination, not to exceed eight dollars (\$8.00) per day per person, upon demand of the Superintendent of Insurance supported by an itemized statement of such expenses, duly sworn to by each such person, and in addition thereto shall pay to the office of the Superintendent of Insurance a per diem of not in excess of \$25.00 for the time actually spent by the actuary and not in excess of \$25.00 per day for each examiner or accountant appointed to assist in the making of such examination, including time necessarily spent in traveling to or from the place of such examination. All sums paid by such foreign company on account of such expenses or such per diem to the office of the Superintendent of Insurance shall be covered into the State Treasury, and the State Treasurer, upon being billed by the Bureau of Insurance of the Department of Commerce and the filing with the State Treasurer of an itemized, verified statement of expenses, shall reimburse the persons incurring such expense for the actual amount thereof. In any case where the Superintendent of Insurance finds it necessary to use the services of anyone other than an officer or regular employee of the Bureau of Insurance to assist in the examination of any Company, Association or Order, either domestic or foreign, each such person so engaged shall be compensated for his services and expenses in the same manner and at the same rates as provided for regular employees of the Bureau.

6. That Section 8347 of the Code of Alabama is amended to read as follows: *Section 8347.* The Superintendent of Insurance through his Actuary shall each year compute the net value on the thirty-first day of December of the preceding year, of all outstanding policies of life insurance in companies authorized to make insurance on lives in this state upon the basis of the "combined experience" or "actuaries" table, or the "American experience table" rate of mortality, with the interest at four per cent per annum, first year preliminary term method of valuation or upon any higher standard selected by the Insurance Company; and the aggregate net value, so ascertained, of the policies of such company, shall be deemed its liability on account of its policy obligations, other than accrued claims, to provide for which it shall hold assets of an amount equal to such net value above all other liabilities. Whenever a domestic company furnishes the Bureau of Insurance with a computation of the net value of all outstanding policies computed by its own actuary, or an actuary satisfactory to the Superintendent of Insurance, such computations shall be verified by the actuary of the Bureau of Insurance without cost to such company. In the event such computation is not prepared in a satisfactory manner by any domestic company, then the actuary of the Bureau of Insurance shall, as provided above, compute the net value on the thirty-first day of December of the preceding year of all outstanding policies, and such domestic company shall pay to the office of the State Treasurer the actual railroad fare involved, and in addition, hotel bills and other actual and necessary expenses of the actuary in making such valuation, not to exceed \$3.00 per day, upon demand by the Superintendent of Insurance supported by an itemized statement of such expenses duly sworn to by the actuary and in addition thereto shall pay to the office of the Superintendent of Insurance a per diem of not in excess of \$15.00 for the time actually spent by the actuary in the making of such computations. Whenever a foreign life insurance company shall present to the Superintendent of Insurance a certificate from the Insurance Commissioner of another state, as to the value of its policies in force, the Superintendent of Insurance of this State shall be allowed to accept such valuations in lieu of his own valuation; the valuation shall be made according to the standard fixed in this section. To determine the liability upon its contracts of insurance of an insurance company other than life, the Superintendent of Insurance shall require such company to charge as the liability for reinsurance of outstanding policies fifty per cent of the premiums received on policies or risks having not more than one year to run, and a pro rata of all premiums received on policies or risks having more than one year to run, and in the case of companies doing a liability insurance an additional reserve fund shall be charged and known

as "liability reserve" to an amount of not less than three hundred dollars for each suit pending against such company's policyholders, for which it may be liable in the lower court, and seven hundred dollars additional when such suit is appealed by the defendant to a higher court. The Superintendent of Insurance shall allow to the credit of an insurance company, in the account of its financial condition, on such assets as are or can be made available for the payment of losses in Alabama. He shall not allow stockholders' obligations of any description as part of the assets or capital of any insurance company unless the same are secured by collateral satisfactory to the Superintendent of Insurance.

Section 7. All laws and parts of laws in conflict herewith are hereby repealed.

Section 8. Anything in this Act to the contrary notwithstanding, all employees and officers of the Department of Commerce, including the Chiefs of Bureaus, shall be subject to the provisions of any law with respect to the method of selection and classification of State employees.

Section 9. This Act shall become effective upon its passage and approval by the Governor.

Approved September 21, 1939.

No. 528)

(H. 774—Deloney

AN ACT

To designate the Joe Wheeler Highway consisting of that part of certain roads located in Alabama.

Be it Enacted by the Legislature of Alabama:

Section 1. That certain road described as beginning at the point where the Fayetteville, Tennessee and Huntsville, Alabama road crosses the Tennessee-Alabama State Line, extending Southward to Huntsville, thence to Belle Mina, Mooresville, Decatur, Tusculumbia, Sheffield, Florence, and thence to the Alabama-Tennessee Line toward Savannah, Tennessee, be and the same is designated as the Joe Wheeler Highway, it being the purpose to designate such Highway as the route over which General Joe Wheeler traveled in his movements during the War between the States, and to extend as far as the Legislature of Alabama has authority to extend the designation, inviting the States of Tennessee, Georgia, Mississippi, to fill out the entire course of General Wheeler's travels; it being understood that his route covered the following: Beginning at, Augusta, Georgia, thence to Athens, Georgia, Atlanta, Rome, Dalton, Chattanooga, Tennessee, Jasper, Monteagle, Sewanee, Winchester, Fayetteville, and thence to

Huntsville, Alabama, Belle Mina, Mooresville, Decatur, Tusculumbia, Sheffield, Florence, Savannah, Tennessee, Shiloh National Park Mississippi Selmer, Tennessee, Bolivar to Memphis, Tennessee.

Section 2. That this Act shall become effective upon its approval by the Governor, or its otherwise becoming a law; and all laws and parts of laws in conflicts herewith are hereby repealed.

Approved September 21, 1939.

No. 529)

(H. 844—Gwin

AN ACT

To amend Sections 5 and 29 of An Act of the Legislature of Alabama entitled "An Act To Provide And Regulate And Control Primary Elections For The Nomination By Political Parties of Candidates For Public Office Within The State Of Alabama," approved February 25, 1931.

Be it Enacted by the Legislature of Alabama:

Section 1. That Sections 5 and 29 of an Act of the Legislature of Alabama entitled "An Act To Provide And Regulate And Control Primary Elections For The Nominations By Political Parties of Candidates For Public Office Within The State Of Alabama," approved February 25, 1931, be and the same are hereby amended so as to read as follows: Section 5. If any primary elections are held at the expense of the State or Counties, except special primary elections, they shall be held on the first Tuesday in May, 1932, and on the first Tuesday in May every Two years thereafter, and, when necessary, as hereinafter provided, a second primary shall, be held on the Fourth Tuesday next thereafter following said primary election. The second primary election shall be held by the same election officers, who held the first primary election, and be held at the same places the first primary election was held. No primary shall be held by any political parties for the nomination of candidates except as herein provided. Primary elections herein provided for shall be held at the regular polling places established for the purpose of holding general elections. Section 29. The County Executive Committee of the party or parties participating in said primary election shall meet at the Court House of their Counties, not later than Thursday, noon, next following said primary election, and receive said returns, canvas and tabulate the same, by precincts, and publicly declare the results thereof; and the Chairman of each County Executive Committee shall forthwith, and not later than noon of the next day, certify and return to the Chairman of the State Executive Committee a statement and tabulation, by precincts, of the result of said primary election and of the number of votes received by each candidate therein for office, except can-

didates for County office, and at noon on the first Tuesday next following said primary election, the State Executive Committee, or such sub-committee thereof as may have been appointed by the Chairman thereof for such purpose, shall meet at the State Capitol in Montgomery and receive said returns and canvass and tabulate the same by Counties, and publicly declare the result thereof as to all candidates for office therein, except candidates for County office; and at said respective meetings of said respective Executive Committees, said County Executive Committee shall, as to candidates for County office in said primary elections, and said State Executive Committee shall, as to candidates in said primary election, for office, except candidates for County office, publicly ascertain, determine and declare; (1) If any candidate for office in said primary election has received a majority of the votes cast for that office, and, if so, declare said candidate the nominee of the party for the office which he was a candidate and for which he received a majority of the votes cast for that office in said primary election; (2) If no candidate receive a majority of all of the votes cast in such primary election for any one office or offices for the nomination to which there were more than two candidates, then there shall be held a second primary election on the fourth Tuesday next thereafter following said primary election, and the Chairman of the State Executive Committee shall certify to the Secretary of State, within three days from the date the State Executive Committee, or sub-committee thereof, canvassed the returns of the first primary election, the names of the two candidates of his party to receive the highest number of votes in the first primary election for such office, or offices, except County officers, and who are to be voted for in the second primary election, and the Chairman of each County Executive Committee shall, within three days from the date the County Executive Committee canvassed the returns of the first primary election, certify to the Probate Judge of the County the names of the two candidates who received the highest number of votes in the first primary for nomination to any County office; and the Secretary of State shall, within not more than three days from the date he receives said certificate from the Chairman of the State Executive Committee, certify to the Probate Judge, of any County where a second primary election is to be held the name or names of the candidates certified to him as herein provided by the Chairman of the State Executive Committee; and the Probate Judge of each County in Alabama shall in manner and form as required by this Act and the general laws of Alabama have prepared and printed all election supplies and all ballots to be voted in the second primary election, which ballots shall contain, under appropriate headings or titles of the offices to be filled, the names of the two candidates for each office so certified to him by the Secretary of State

and the Chairman of the County Executive Committee, as herein required, as well as such other matters as are required by this Act and the general laws of Alabama, on ballots for the first primary election. At the second primary election no one can be a candidate except the two persons who receive the highest number of votes for the office for which they were candidates, in the first primary election. The returns from the second primary election shall be made and the votes canvassed and tabulated and the results declared in the same manner herein provided for making, canvassing and tabulating, and declaring the results of the first primary election. The County Executive Committee of the parties participating in said primary election shall meet at the Court House of their respective Counties not later than Thursday noon, next following the second primary election and receive said returns, canvass and tabulate the same by precincts, and publicly declare the results thereof, and the Chairman of each County Executive Committee shall forthwith, and not later than noon of the next day, certify and return to the Chairman of the State Executive Committee a statement and tabulation by precincts of the results of the second primary election and of the number of votes received by each candidate for office therein voted for, except candidates for County office, and at noon on the second Thursday next following the second primary election the State Executive Committee, or such subcommittee thereof as may have been appointed by the Chairman thereof for such purpose, shall meet at the State Capitol in Montgomery and receive said returns and canvass and tabulate the same by Counties, and publicly declare the result thereof as to all candidates voted for, except as to candidates for County office, and at said respective meetings of said respective Executive Committees, said County Executive Committee shall, as to candidates for County office voted for in the second primary election, and said State Executive Committee shall, as to candidates for office in the second primary election voted for therein, except candidates for County office, publicly ascertain and determine the candidates receiving a majority of all of the votes cast in such second primary election for any one office, and the candidates so ascertained and determined to have received a majority of all of the votes cast in such second primary election for said office shall be declared the nominee of the party for such office, by said respective County and State Executive Committees; and thereupon, and within five days from the date the County Executive Committee canvassed the returns of the second primary election, the Chairman thereof shall certify to and file with the Judge of Probate of his county the names of those who have been nominated in the first or the second primary election or as otherwise authorized or provided by this Act, as candidates of his party for County offices, and in like manner, and

within ten days from the date the State Executive Committee, or sub-committee thereof canvassed the returns of the second primary election, the Chairman of the State Executive Committee shall certify to and file with the Secretary of State the names of those who have been nominated in the first or second primary election or as otherwise authorized or provided by this Act as Candidates of his party for office, except candidates for County office, and the names of the persons so certified shall be placed upon the official ballot of the general election to be held in November next thereafter as the candidates of the party for the offices for which they, respectively, have been so nominated. In the event either of the two candidates receiving the highest number of votes in the first primary election shall determine not to enter the second primary election, herein provided for, he shall, as soon as possible and not less than ten days after the holding of the first primary election, certify his declination to enter such second primary election to the Chairman of the State Executive Committee of his party, if the office is an office other than a County office, or to the Chairman of the County Executive Committee of his party if the office is a County office, and upon the receipt of such notification the Chairman of such Committee shall declare the other candidate the nominee of the party for said office and certify his name as such nominee to the Secretary of State or Probate Judge, as the case may require, and a second primary election for the nomination of a candidate for that particular office shall not be held, nor shall his name be printed on the ballot of the second primary election. If a nominee for a single office is to be selected, with more than one candidate, then the majority of votes cast for said office in such election shall be ascertained by dividing the total vote cast for all candidates for said office by two, and any number of votes in excess of one-half of such total votes cast for all candidates for such office shall be a majority within the meaning of this section. If nominee for two or more offices (constituting a group) are to be selected, and there are more candidates for nomination than there are such offices, then the majority of votes cast for said office in such election shall be ascertained by dividing the total vote cast for all such candidates by the number of positions to be filled, and then dividing the result by two. Any number of votes in excess of the number ascertained by such last division shall be the majority herein provided for necessary for nomination. If in ascertaining the result in this way, it appears that more candidates have obtained this majority than there are positions to be filled, then those having the highest vote, if beyond the majority just defined, shall be declared the nominees for the positions to be filled.

Section 2. This Act shall be effective immediately upon its approval by the Governor.

Approved September 22, 1939.

No. 530)

(H. 848—Dominick

AN ACT

To make a special appropriation for the use of The Armory Commission of Alabama in paying obligations incurred in connection with the construction of armories, warehouses, and other permanent structures for the housing of the National Guard, Naval Militia, and other units of the State Militia, contingent upon the Governor finding the condition of the State Treasury to warrant such expenditures, and to provide for the manner and other conditions under which such expenditures shall be made.

Be it Enacted by the Legislature of Alabama:

Section 1. That there is hereby appropriated, out of the monies in the State Treasury not otherwise appropriated, the sum of Sixty Thousand Dollars (\$60,000.00) for the use of the Armory Commission of Alabama in paying or satisfying any mortgage indebtednesses or other obligations which the Armory Commission of Alabama or any unit or headquarters may be obligated to pay in connection with the construction of armories, warehouses, or other permanent structures for the housing of the National Guard, Naval Militia, and other units of the State Militia; provided, however, that the appropriation hereby made shall be available when, as, and in such amounts as the Governor in his discretion considers that the condition of the State treasury will permit; and provided further, that when and as said appropriation, or any portion or portions thereof, is made available by the Governor as provided herein, said money may be used either wholly or in part to reimburse any unit or headquarters of the State Militia for any monies it shall have advanced, paid out, or provided from any source after the date of the approval of this Act for the purpose of paying any mortgage indebtedness or obligation for the payment of which this appropriation is made. All expenditures made under authority of this Act shall be paid on vouchers approved by The Adjutant General on behalf of the Armory Commission of Alabama and by the Governor. The Governor is hereby authorized to use, in his discretion, any part of any unexpended balance of any annual budget allotment made by or with the approval of the Governor for or under the "Active Military Service" appropriation for the purpose of paying or satisfying the appropriation made by this Act.

Approved September 21, 1939.

No. 531)

(H. 866—Smyer

AN ACT

To amend Section III and Section X of an act entitled "An act to create a County Board of Equalization in and for each of the sixty-seven counties of the State; To provide for the manner of selecting the members

of such Board; To provide for the appointment, the term of office and compensation of such members; To provide the powers, rights, authority and duties of the said County Boards of Equalization and the members thereof; to provide a secretary for each of said Boards of Equalization; To abolish the several County Boards of Review, as now or heretofore created, and to repeal laws in conflict with this Act" approved March 15th, 1939, so as to authorize certain County Boards of Equalization to employ assistants and to make inventory of property in certain counties.

Be it Enacted by the Legislature of Alabama:

Section 1—That Section III and Section X of an act entitled, "An Act to create a County Board of Equalization in and for each of the sixty-seven counties of the State: To Provide for the manner of selecting the members of such Board; To provide for the appointment, the term of office and compensation of such members; To provide the powers, rights, authority and duties of the said County Boards of Equalization and the members thereof; To provide a secretary for each of said Boards of Equalization; To abolish the several County Boards of Review, as now or heretofore created, and to repeal all laws in conflict with this Act," approved March 15th, 1939, be and the same is amended so as to read as follows:—Section III. During the month of August, 1943, and during the month of August of each fourth year thereafter, the Court of County Commissioners, or other governing body of each County, the County Board of Education, and the Governing body of the largest municipality in each County shall each submit in writing to the State Commissioner of Revenue, the names of three persons, and the governing body of each other incorporated municipality within the County shall in like manner submit the name of one person, all of whom are residents of the County and who are each owners of taxable property which is located within this State and who are each qualified electors in said county, and who are, in the opinion of said nominating body, persons competent to serve as members of the County Board of Equalization. In those counties where there is no incorporated municipality, the Court of County Commissioners or other governing body of said County shall nominate six persons as competent persons for appointment to membership on such Board of Equalization. From each group of three nominees, submitted by the county governing bodies and the County Board of Education and from the total group of nominees submitted by the governing bodies of the municipalities, the Commissioner of Revenue within thirty days after receipt of such lists of nominees, with the approval of the Governor, shall appoint one person to membership on the County Board of Equalization so that the membership of said Board shall be composed of three members, one of whom was nominated by the governing body of the County, one by the County Board of Education and one by the governing body of the incorporated municipalities in the County, except, however,

that in those counties having no incorporated municipality, two of the three members of said Board shall be selected from the six nominees of the County governing body. The members of the several County Boards of Equalization appointed from the nominees as in this section provided, shall hold office for four years, beginning October 1st, 1943, and each fourth year thereafter. Excepting and provided further, that in all counties where there now is a county wide Civil Service system and the members of the County Board of Equalization have been selected after qualifying by a Civil Service examination, such members of the County Board of Equalization shall be deemed appointed under the provisions of the Act creating such Civil Service System, and to have acquired permanent Civil Service Status, and shall not be required to be re-appointed as provided for under this Act. Section X. The compensation of the members of the several County Boards of Equalization as provided for in Section Nine of this Act, shall be paid one-third by the State, one-third by the County, and one-third by any municipality in the County in which the total assessed value of all taxable property is equal to or greater than fifty per cent of the total assessed value of all taxable property located in the County. In those counties where there is no City in which the total assessed value of the taxable property is equal to or greater than fifty per cent of the total taxable property of the county, then the compensation of the members of the County Board of Equalization, as provided in Section nine hereof, shall be paid one-half by the State and one-half by the County. Those counties in which the total assessed value of all taxable property exceeds \$200,000,000.00 according to the tax assessors abstract of the assessment for the year 1938, or any subsequent year, the County Boards of Equalization of such counties are hereby authorized and empowered to employ such appraisers, engineers, stenographers, clerks or assistants as may be necessary for the performance of the duties which may be required of said Boards of Equalization, subject however to all the provisions of any merit system law now or hereafter in effect in said County; and provided further that the number of persons to be employed by the Board of Equalization shall be subject to the approval of the County Commission or like governing body, and the State Commissioner of Revenue and provided further that if the compensation of said employee is governed by the provisions of any merit system law in effect, that the provisions of said law shall govern, otherwise the compensation of said employee shall be fixed by the County Commission or like governing body, subject to the approval of the commissioner of revenue, all such compensation to be paid in the same manner as the law providing for the payment of compensation to the members of the County Board of Equalization of said County. The said County Board of Equalization in

said county is further authorized and empowered to provide for an inventory of all property in said county, which inventory shall be under the supervision and control of said board. The State, County and governing body of all municipalities in said county, and all Boards of Education are hereby authorized to contribute so much of the cost of said inventory as may be approved by the various governing bodies in said County, and in the event the State elects to contribute to the cost of said inventory, the amount to be contributed shall be approved by the State Commissioner of Revenue and the governor. In all Counties having a population of two hundred thousand or more, according to the last or any subsequent Federal census, it shall be the duty of the Courts of County Commissioners, or other like governing bodies of such counties in this State, to furnish and supply the County Boards of Equalization with adequate office space, necessary furniture and equipment, all necessary books, maps, stationery and printed blanks; and transportation or reasonable compensation for transportation expense actually incurred in performance of official duties.

Section 1-1/2. Any inventory of property in any such county as provided for in the foregoing section shall not be taken or made unless the same is first authorized or approved by the county governing body, which body shall also have the right from time to time to fix and determine the number of employees to be used in making any such inventory. All employees engaged in making any such inventory shall be selected under and governed by the provisions of any county-wide civil service law governing county employees that may be in force and effect in any such county.

Section 2—All laws, or parts of laws in conflict with the provisions of this Act are hereby repealed.

Section 3—This act shall take effect immediately upon its approval by the Governor.

Approved September 22, 1939.

No. 532)

(H. 871—Smyer

AN ACT

To amend Sections 4, 5 and 6 of an Act entitled an act "to provide for a more economical, convenient and uniform system of assessing and collecting taxes on real estate, including the enforcement of tax liens, in all Counties having a population of 110,000 or more, according to the last, or any succeeding Federal Census", approved April 21st, 1936, so as to provide for the filing of protests to the valuation fixed by the Board of Equalization by any owner, or any person having any interest in any property and to provide for the time, place, hearing and filing of said protests and to authorize the Tax Assessor to provide the forms for claims of homestead exemption and the claiming of said homestead exemption.

Be it Enacted by the Legislature of Alabama:

Section 1. That Section 4, 5 and 6 of an act entitled an act "to provide for a more economical, convenient and uniform system of assessing and collecting taxes on real estate, including the enforcement of tax liens, in all Counties having a population of 110,000 or more, according to the last, or any succeeding Federal Census," approved April 21st, 1936, be amended so as to read as follows: Section 4. After making said assessment as herein provided for, and on or before the last Monday in January of each taxable year, the tax assessor shall deliver a copy of all of said assessments to the Board of Review, who shall place a value on said property so assessed for the present tax year, and shall complete said work of fixing the assessed value of said property on or before the second Monday in April. Section 5. Any owner of any property or any person having an interest therein shall have the right to protest any valuation placed on said property by the Board of Equalization. Said protests shall be in such form and shall be heard in such manner as now provided for by law except that the Board of Equalization in said counties shall have the right to fix the time and place of hearing said protests at any time after said protests are filed, by giving the person filing said protest notice of the time and place as now provided for by law, provided further that all protests must be filed prior to May 15th and must be heard and determined on or before July 1st subsequent to the filing of the same. Any protests may be filed after October 1st, and shall be deemed a protest to the valuations for the tax year beginning October 1st. Upon the final hearing of each protest, the Board of Equalization shall enter a final judgment giving the date of the same and shall immediately certify the same to the Tax Assessor. In the event the Board of Equalization raises the assessed value of any property at any time, notice of such raise shall be given by Registered Mail, addressed to the party against whom said property is assessed. Section 6. After the assessments have been completed, as herein provided, the Tax Assessor shall prepare a tax roll showing the name and address of the person against whom said property was assessed, the description of said property and spaces for the amount of taxes, interest, fees etc., the form of which to be approved by the Department of Revenue and such rolls shall be delivered to the Tax Collector on or before the 15th day of September. Any person entitled to a homestead exemption shall be credited with said exemption upon properly filling out a claim for said exemption upon forms required by the Tax Assessor. It shall be the duty of the Tax Assessor to prepare and have furnished proper forms for the claim of homestead exemptions. Taxes on all assessments shall be due October 1st and delinquent January 1st thereafter.

Section 2. All laws, or parts of laws in conflict with the provisions of this Act are hereby repealed.

Section 3. This Act shall take effect immediately upon its approval by the Governor.

Approved September 22, 1939.

No. 533)

(H. 901—Sightler

AN ACT

To amend the title and the body of an Act entitled "An Act to provide and create a commission form of municipal government and to establish same in all cities of Alabama which now have or which may hereafter have a population of as much as forty thousand and less than sixty-seven thousand people according to the last Federal Census or any such census which may hereafter be taken; To regulate the selection or nomination and election of Commissioners and their terms of office; To fix their powers, duties and compensation, To punish improper conduct in connection with the elections, primaries and petitions hereunder; To abolish Police Commissioners, aldermen and certain other city officials, and otherwise provide for the creating and maintenance of said Commission form of government," approved March 4, 1931, and found in the printed General Acts of Alabama, Regular Session, 1931, at pages 99 to 125, inclusive, as amended by an Act entitled "An Act to amend Section 16 of an Act 'To provide and create a commission form of municipal government and to establish same in all cities of Alabama which now have or which may hereafter have a population of as much as forty thousand and less than sixty-seven thousand people according to the last Federal Census or any such census which may hereafter be taken; to regulate the selection or nomination and election of Commissioners and their terms of office; to fix their powers, duties and compensation; to punish improper conduct in connection with the elections, primaries and petitions hereunder; to abolish police Commissioners, aldermen and certain other city officials, and otherwise provide for the creation and maintenance of said Commission form of government' Approved March 4, 1931," approved June 18, 1931, and found in the printed General Acts of Alabama, Regular Session, 1931, at pages 334 and 335, so as to provide for and create in all such cities a pension system applicable to all employees of such cities except employees of such cities who are members of the regularly organized and paid fire departments of such cities; to fix the qualifications for their retirement and to prescribe the benefits to which they will be entitled upon their retirement and the time and manner of payment of such benefits; to provide that benefits under such pension system shall not be subject to garnishment or levy of execution or attachment or other process issued out of any court of this State or any other State and that such benefits shall be not assigned; to fix the time for the change in classification or re-classification of all cities once coming within the terms of and operating under the Act hereby amended when such change in classification or re-classification is brought about by a change in population of such cities based on a Federal Census; to provide that if any of the provisions of this Act shall be held to be invalid or unconstitutional such holding shall not affect any of the other provisions hereof; and to repeal all laws and parts of laws in conflict herewith.

Be it Enacted by the Legislature of Alabama:

Section 1. That the title of an Act entitled "An Act to provide and create a commission form of municipal government and to establish same in all cities of Alabama which now have or which may hereafter have a population of forty thousand and less than sixty-seven thousand people according to the last Federal Census or any such census which may hereafter be taken; To regulate the selection or nomination and election of Commissioners and their terms of office; To fix their powers, duties and compensation, To punish improper conduct in connection with the elections, primaries and petitions hereunder; To abolish Police Commissioners, aldermen and certain other city officials, and otherwise provide for the creation and maintenance of said Commission form of government," approved March 4, 1931, and found in the printed General Acts of Alabama, Regular Session, 1931, at pages 99 to 125, inclusive, be and the same is hereby, amended so as to read as follows: "An Act to provide and create a commission form of municipal government and to establish same in all cities of Alabama which now have or which may hereafter have a population of as much as forty thousand and less than sixty-seven thousand people according to the last Federal Census or any such census which may hereafter be taken; to regulate the selection or nomination and election of Commissioners and their terms of office; to fix their powers, duties and compensation; to punish improper conduct in connection with the elections, primaries and petitions hereunder; to abolish Police Commissioners, aldermen and certain other city officials, and otherwise provide for the creation and maintenance of said Commission form of government; to provide for and create in all such cities a pension system applicable to all employees of such cities except employees of such cities who are members of the regularly organized and paid fire departments of such cities; to fix the qualifications for their retirement and to prescribe the benefits to which they will be entitled upon their retirement and the time and manner of payment of such benefits; to provide that benefits under such pension system shall not be subject to garnishment or levy of execution or attachment or other process issued out of any court of this State or any other State and that such benefits shall not be assigned; to fix the time for the change in classification or re-classification of all cities once coming within the terms of and operating under the Act hereby amended when such change in classification or re-classification is brought about by a change in population of such cities based on a Federal Census; to provide that if any of the provisions of this Act shall be held to be invalid or unconstitutional such holding shall not affect any of the other provisions hereof; and to repeal all laws and parts of laws in conflict herewith.

Section 2. That the body of said Act approved March 4, 1931, referred to in the title and in Section 1 hereof, as amended by said Act approved June 18, 1931, referred to in the title hereof, be, and the same is hereby, amended so as to read as follows: Section 1. All cities of the State of Alabama which have a population of as many as forty thousand and less than sixty-seven thousand people, according to the last Federal Census, or which shall hereafter have such a population according to any such census that may be taken hereafter, shall become organized under the commission form of government, according to the terms of this Act, and shall be known as cities of Class "C". Section 2. In all cities of the State of Alabama which have such population, according to the last Federal census, the Governor is authorized, during the year 1911, and required to appoint four persons, to hold office as commissioners of said city, who shall hold office from the second Monday in April, 1911, until the first Monday in October, 1915, and until their successors shall be elected and shall qualify as hereinafter provided, but after the expiration of the terms of the first commissioners, i. e., the first Monday in October, 1915, there shall be but three commissioners for any such city. The term of office of each member of the board, including the president of the Commissioners, after the expiration of the term hereinbefore provided, shall be four years, and until their successors shall be elected and shall qualify as hereinafter provided. The mayor, or chief executive of every such city, shall be and become on the second Monday in April, 1911, as provided herein, the president of the board of commissioners of such city, and shall hold office until the first Monday in October, 1915. It is the intention of this Act that the Commissioners appointed by the Governor in 1911, to take office on the second Monday in April, 1911, and shall hold office until the first Monday in October, 1915, and that the board of commissioners of any such city shall thereafter consist of only three members, who shall be elected by the voters of such city on the third Monday in September, 1915, and thereafter an election shall be held on the third Monday in May, 1919, and on the same day of every fourth succeeding year, including the year 1927, and on the third Monday in May, 1931, and on the same day of every fourth succeeding year. Section 3. The provisions of this Act shall apply to and become operative in all cities not now having but which shall hereafter have a population of as many as forty thousand people, according to any Federal census that may be taken hereafter, and election may be called and such cities may become organized under this Act in the same manner, as cities having the required population at the time of the passage of this Act. Section 4. The President and the Commissioners provided for in this Act shall be known collectively as the "Board of Commissioners of the City of....." (name of City to be inserted), and shall

be the members of the board of commissioners and it shall have the powers and duties hereinafter provided. The first commissioners appointed under the provisions of this Act shall qualify for office in the manner prescribed by this Act, and shall take office on the second Monday in April, 1911. As soon as they have qualified for office in any such city, then such city shall at that time and thereby be and become organized under the commission form of government provided by this Act and said commissioners provided for by this Act shall forthwith take office and enter upon their duties. Section 5. The President of the Board of Commissioners and Commissioners of such city to be known as the Board of Commissioners of said City, as provided, shall be municipal officers only, and shall have, and possess and exercise, only the municipal powers, legislative, executive and judicial possessed and exercised by the Mayor and Board of Aldermen, and any and all other Boards, Commission and Officers of such city of any and of every sort whatsoever, except the powers conferred on the County Board of Health, insofar as they apply to said city, by State law, or by existing ordinances enacted by said city, except whatsoever power they may possess, expressly or impliedly as State officers, or such powers that are expressly or impliedly given by this Act; and all such Boards, Commissioners and officers, except those provided by this Act, shall then and there be abolished and the terms of office of any and all such officers or officials shall then and thereby cease. Said Board of Commissioners shall not have, possess or exercise any legislative, executive, judicial or administrative powers of the State or county, except when acting as recorder, and then only as a committing magistrate, nor shall the offices held by them by State offices, except as herein provided; such City shall continue its existence as a body corporate under the name of "City of _____" (inserting name of City.) It shall continue to be subject to all the duties and obligations then pertaining to or incumbent upon it as a municipal corporation nor inconsistent with the provisions of this Act, and shall continue to enjoy all the rights, immunities, powers, privileges and franchises then enjoyed by it, as well as those that may hereafter be granted to it, not inconsistent with the provisions of this Act. All laws governing such City, and not inconsistent with the provisions of this Act, shall apply to and govern said city after it shall become organized under the commission form of government provided by this Act. Said Board of Commissioners shall have the exclusive right to regulate or permit within the police jurisdiction of any such City the playing of any game or amusement on Sunday, and any law in conflict with this provision, in so far as same relates to any City of this Class is hereby repealed. All laws, ordinances and resolutions lawfully passed and in force in any such City under its former organization not inconsistent with the pro-

visions of this Act, shall remain in force until altered or repealed, according to the provisions of this Act. The territorial limits of such City shall remain the same as under its former organization, and all rights and property of every description which vested in it shall vest in it under the organization herein provided for as though there had been no change in the organization of said City; and no right or liability either in favor of it or against it and no suit or prosecution of any kind shall be affected by such change, unless otherwise expressly provided for by the terms of this Act. All employees of said City and all officials except those whose terms of office are abolished by this Act shall continue in office until otherwise provided by said Board of Commissioners of said City, provided that this withdrawal or transfer of powers shall not apply to the powers conferred on the County Board of Health or in so far as they apply to said City by State law or by existing city ordinances, nor shall they apply to the appointment of health officers for a City, nor to persons employed by such health officers to enforce quarantine under ordinances in force in the City.

Section 6. In cities having a population of 40,000 and less than 67,000 people, the management and control of the public school therein shall be vested in a Board of Education as provided under an Act "To provide for the consolidation of the administration and control of the public school system in any County of not less than seventy-five thousand nor more than one hundred thousand population according to the last or any succeeding Federal Census; to establish a Board of Education in lieu of all other City and County Boards of Education in such counties, and provide for the manner of its selection and to define its authority," Approved September 6, 1927. All property, real, personal and mixed, now held or hereafter acquired for school purposes, shall be held in trust for the use of the public schools of the City or town and no sale or purchase of real estate shall be made by any other than the Board of Education of such City or town. The Board of Education shall have full and exclusive power within the limits of the revenue appropriated for such purpose, or accruing to the use of the public schools, to purchase fixtures, furniture, apparatus, libraries, fuel and supplies for the use of the schools, and to sell the same, and to make expenditures for the maintenance and repair of the school grounds, buildings and other property, to purchase sites and to establish and build new schools when such sites have been provided by the Board of Education and to superintend the erection thereof; to make additions, alterations, and repairs to the buildings and property devoted to school uses, and to make necessary and proper regulations, contracts and agreements in relation to such matters. All such contracts shall insure to the benefit of the public schools and in a suit at law or in equity, brought upon them and for the recovery and protection of money and property belonging

to and used by the public schools, or for damages, shall be brought by and in the name of the City. Each year the board of education shall make an estimate, in detail, of the amount of money required for the proper support and maintenance of the public schools during the next scholastic year, which shall be submitted to the Board of Commissioners and the Board of Commissioners shall make annual appropriations for the support and maintenance of the schools that it may deem necessary and proper, in view of all other needs of the government of the City and of the expected revenues from taxes and otherwise. Money so appropriated, and all money received from the school fund of the State, poll taxes and the sale of school property and the sale of bonds for school purposes, and from any other source whatever, for school purposes, shall be held by the Treasurer of the City, as a special fund or funds for school purposes, and it shall be paid out by him on warrants drawn by the clerk of the board, and countersigned by the president, or vice president, when acting as president of the Board of Education, and by the clerk of the city, and not otherwise. And no warrants shall be drawn unless in pursuance of a resolution of the board of education, entered upon its minutes. The board of education shall have full control of the public school of the city or town. It shall have power to establish schools, to discontinue any school, to consolidate schools; to prescribe courses of study and books to be used not in conflict with the general law in reference to text books, to divide the city into school divisions as circumstances may require, to employ teachers and superintendents of schools, and necessary employees, and to fix their salaries and wages, to establish and maintain high schools and prescribe rules, for the expulsion of pupils, to expel any pupil guilty of gross disobedience or willful misconduct; to dismiss any superintendent, teacher, or employee when in its opinion to the interest of the school require it, and generally to have and exercise all rights, powers and authority required for the management of a system of public schools. To designate amount to be paid by non-residents of the districts whether owners of property or not, who desire their children to be enrolled. It shall be the duty of the board of education to examine or cause to be examined all persons at times and places fixed by it, offering as candidates for teachers' places, and when found qualified to give them certificates of qualification gratuitously, to grant diplomas without charge to graduates of the high schools, to visit all schools as often as once a month, to establish and uniformly enforce proper rules and regulations, to inquire into the performance of their duties by the teachers and superintendent, and into the progress of the pupils, and to prepare and submit to the board of commissioners an annual report showing the operation of the schools for the past scholastic year and suggesting their needs for the future. It shall

be the duty of the board of education to elect a superintendent of schools, fix his term of office and salary, prescribe his powers and duties. The superintendent shall be required to give bond for the faithful performance of his duties which shall be payable to said city in the sum to be fixed by the board, not less than three thousand dollars, with surety or sureties to be approved by the president of the board, the bond to be filed with the clerk of the city or town. The superintendent may be elected clerk of the board of education, and if so elected his bond shall stand as security for the faithful performance of his duties as clerk as well as superintendent however conditioned. It shall be the duty of the clerk of the board of education to keep full and correct detail account of all money received and expended. The board of commissioners shall attend to the taking of the school census, which shall be taken in the month of April, of each year, and it shall be their duty to make complete and accurate reports of the same to the superintendent of education of the State. Each incorporated city or town as a special district or embraced therein, shall receive its proportionate share of the public school revenue, to be paid over by the State superintendent of education direct to the city superintendent of schools, and by him paid over to the city treasurer. Section 7. Every city organized under the form of Government provided for by this Act, shall be governed and managed by the board of commissioners provided for herein, except as otherwise provided herein. Each and every officer and employee of said city except the health officer and such persons as may be employed by him to enforce quarantine, and such other officers and employees as are designated in this act shall be selected and employed by the said board of commissioners, under its direction, and all salaries and wages paid by said City except as otherwise provided by the terms of this Act, shall be fixed by said board of commissioners. Unless otherwise provided in this Act the Commissioners shall prescribe and may at any time change the powers, duties and titles of all subordinate officers and employees of said city, except the health officer and those holding under him, all of whom except those herein otherwise specified, shall hold office and be removable at the pleasure of the board of commissioners, except such other employees whose employment, term of office, removal and the prescription of whose duties are otherwise provided for in this Act. The powers and duties of the board of commissioners in such cities shall be distributed into and among three departments, as follows: (1) Department of public affairs; (2) Department of finance; (3) Department of public works. The powers and duties pertaining to each of said departments shall be fixed by the president of the said board of commissioners, and altered from time to time as he may deem best, for the good of the service. Section 8. Said board of commissioners shall hold

regular public meetings on Tuesday of each and every week at some regular hour to be fixed by said board from time to time, and publicly announced by it, and it may hold such adjourned, called and other meetings as may be necessary or convenient. The president of the board, when present, shall preside at all meetings of said board but shall have no veto power. A majority of the total number of members of said board shall constitute a quorum for the transaction of any and every business to be done by said board, and for the exercise of any and every power conferred upon it; and the affirmative vote of a majority of the total number of members of said board shall be necessary and sufficient for the passage of any resolution by law or ordinance, for the transaction of any business of any sort by said board or the exercise of any of the powers conferred upon it by the terms of this act or that may be hereafter conferred upon it, by this Act, except remitting fines, penalties and imprisonment. This provision shall not be construed however, so as to prevent the said board from delegating or assigning to one or more of its members, or to such boards, commissioners, officers or employees as may be created or selected by it the performance of such executive or judicial duties, and powers that are by this Act vested in said board of commissioners, as may be necessary or convenient, provided that same is done by resolution, by law or ordinance duly enacted according to the terms of this Act, where not otherwise provided. All meetings of said board of commissioners shall be open to the public. No resolution, by-law or ordinance granting any franchise, appropriating any money for any purpose, providing for any public improvement, enacting any regulations, concerning the public comfort, the public safety or public health or of any other general or permanent nature, shall be enacted, except at a regular or adjourned public meeting of said board, provided that a meeting of the board of commissioners of said city may be called at any time to consider an act upon any emergency that involves the public safety or public health, when not otherwise herein provided. Every motion, resolution or ordinance introduced at any and every such meeting shall be reduced to writing and read before any vote thereon shall be taken and the yeas and nays thereon shall be recorded, a record of the proceedings of every such meeting shall be kept in a well bound book and every resolution and ordinance passed by the board of commissioners must be recorded in such book and a record of the proceedings of the meeting be signed by at least two of the commissioners before the action taken shall be effective such record shall be kept available for inspection by all citizens of such city, at all reasonable times. Section 9. No resolution, by-law or ordinance granting to any person, firm or corporation any franchise, lease or right to use the streets, public highways, thoroughfares, or public property of any city organized

under the provisions of this act either in, under, upon, along, through or over same shall take effect and be in force until thirty days after the final enactment of same by the board of Commissioners and publication of said resolution, by-law or ordinance in full once a week for three consecutive weeks, in some daily newspaper published in said city, which publication shall be made at the expense of the persons, firm or corporation applying for said grant. Pending the passage of any such resolution, by-law or ordinance, or during the time intervening between the final passage and the expiration of the thirty days during which publication shall be made, as above provided, the legally qualified voters of said city may, by written petition or petitions, addressed to said board of commissioners, object to such grant, and if, during said period, such written petition or petitions signed by at least one thousand legally qualified voters of such city shall be filed with said board of Commissioners, said board shall forthwith order an election at which election the legally qualified voters of said city shall vote for or against the proposed grant as set forth in the said by-law, resolution or ordinance. In the call for said election, the said resolution, by-law or ordinance making said grant, shall be published in said city, by one publication. If at such election, the majority of the votes cast shall be in favor of said ordinance, and the making of the said proposed grant, the same shall thereupon become effective, but if a majority of the votes so cast shall be against the passage of the said resolution, by-law or ordinance and against the making of said grant, the said by-law, resolution or ordinance shall not become effective, nor shall it confer any rights, powers, or privileges of any kind, and it shall be the duty of the said board of commissioners after such result of said election shall be determined to pass a resolution or ordinance to that effect. No grant of any franchise, or lease, or right of user, or any other right, in, under, upon, along, through or over the streets, public highways, thoroughfares or public property of any such city shall be made or given nor shall any such rights of any kind whatever be conferred upon any person, firm or corporation except by resolution or ordinance, duly passed by the board of commissioners, at some regular or adjourned public meeting and published as above provided for in this section; nor shall any extension or enlargement of any such rights or powers previously granted be made or given, except in the manner and subject to all the conditions herein provided for, as to the original grant of same. It is expressly provided, however, that the provisions of this Act shall not apply to the grant of sidetracks or switching privileges to any railroad or street car company for the purpose of reaching and affording railway connections and switch privileges to the owners or users of any industrial plant, store or warehouse; provided further that said sidetrack or switch shall not extend for a greater distance

than one thousand three hundred and twenty (1,320) feet. All franchise or privileges heretofore granted, which are not in actual use or enjoyment or which the grantees thereof have not in good faith commenced to exercise at the time of the adoption of this Act, are hereby declared forfeited and of no validity and it shall be the duty of the commission to carry out the provisions of this section by the enactment of ordinances repealing said franchises, provided this act shall not apply to any franchise in which the ordinance granting the same shall have fixed a time within which work shall commence or be completed thereunder and such time shall not have expired at the time of the adoption of this Act. No exclusive franchise shall ever be granted and no franchise shall ever be granted for a longer term than thirty years, and no franchise shall be renewed before one and one-half years of its expiration. When any person or corporation holding a franchise for the location, construction or operation of a railroad over a portion of any street and said franchise has not expired, shall subsequently apply for a franchise to locate, construct or operate a railroad on any portion of the same street or upon any other street in connection therewith, said second franchise shall only be granted for the unexpired term of first franchise. No such grant, right, privilege or franchise shall ever be made to any person, firm, or corporation or association unless it provides for adequate compensation or consideration therefor to be paid to such city, and in addition to any other form of compensation any such grantee shall pay annually such fixed charge as may be prescribed in the franchise ordinance. Whenever any such grant, right, privilege or franchise provides for the payment of a percent of the gross receipts, such grantee shall make and report to the commission all its gross earnings once in six months, and pay into the treasury the amounts due such city at the time said report is made. Said commission shall also have access to and the right to examine all books, receipts, files, records and documents of any such grantees to verify the correctness of such semi-annual statements and to correct the same if found to be erroneous. If such statement of earnings be incorrect, then such payment shall be made upon such corrected statement. Every ordinance granting any franchise may provide that at the expiration of the period for which the franchise was granted, or at any time before, as stated in the ordinance, the city, at its election and upon the payment of a fair valuation therefor, to be made in the manner provided in the ordinance making the grant, may purchase and take over to itself, the property and plant of the grantee in its entirety, but in no case shall the value of the franchise of the grantee be considered or taken into account in fixing such valuation. Or it may be provided in the ordinance granting any franchise that the property and plant of the grantee shall at the expiration of the period for

which the franchise was granted, become the property of the city, without any compensation to the grantee. Every ordinance granting any franchise may further provide that upon the payment by the city of a fair valuation in the manner provided in the ordinance, the plant and the property of the grantee shall become the property of the city by virtue of the grant in payment thereunder, and without the execution of any instrument or conveyance. Or in case it is provided in the ordinance granting any franchise that the property and plant of the grantee shall at the expiration of the period for which it was granted, become the property of the city without any compensation to the grantee, the property and plant of the grantee shall then become the property of the city by virtue of the grant and without the execution of any instrument or conveyance. No franchise granted by the city shall ever be leased, assigned or otherwise alienated without the express consent of the city, and no dealing with the lessee or assignee on the part of the city to require the performance of any act or payment of any compensation by the lessee or assignee, shall be deemed to operate as such consent. Where the municipality is the owner of and operates a public utility plant, no franchise shall be granted to any person or corporation to operate any competitive plant unless approved first by a vote of the majority of the qualified electors of such municipality, at an election held in accordance with the provisions of this act. Section 10. That for the advancement of the interest of the city the commissioners may make expenditures for the advertisement of the advantages of the locality and may make contributions together with its commercial organization for that purpose. Section 11. In every city which shall become organized according to the provisions of this Act, an initial election shall be held on the third Monday in September, 1915, for the election of three commissioners and of the three commissioners elected, that one who received the highest number of votes at the initial election shall be president of the commission and shall have the power of the president therein provided for in this Act. Thereafter an election shall be held on the third Monday in May, 1919, and on the same day of every fourth succeeding year, including the year 1927, and on the third Monday in May, 1931, and on the same day of every fourth succeeding year, for the election of the president and two other members of the board of commissioners to hold office for a term of four years from the first Monday in October in said year and until their successors shall be elected and shall qualify for office. Any person desiring to become an independent candidate at any election which may be held according to the terms of this Act for the office of president of the board or other commissioner may become such candidate by filing in the office of the judge of probate of the county in which said city is situated a statement of such candidacy accompanied by

an affidavit taken and certified by said judge of probate or by a notary public that such person is duly qualified to hold the office for which he desires to become a candidate. Such statement shall be filed at least twenty-one days before the day set for such election and shall be substantially in the following form: "State of Alabama (_____ County), I, the undersigned, being first duly sworn, depose and say that I am a citizen of the city of _____ in said State and county and reside at _____ in said city, that I desire to become a candidate for the office of _____ in said city for the term of _____ years of the election of said office to be held on the _____ day of _____ next; that I am duly qualified to hold said office if elected thereto and I hereby request that my name be printed upon the official ballot at said election (signed) _____. Subscribed and sworn to before me by said _____ on the _____ day of _____ 19_____ and filed in this office for record on said day. _____ Judge of Probate." Said statement shall be accompanied by a petition signed by at least one thousand persons who shall be qualified to vote at said coming election, requesting that such person become a candidate for said office at said election. The signers of said petition shall set forth their names in full and their residence addresses and said petition shall be substantially like the following: "We, the undersigned, duly qualified electors of the City of _____ and residing at the places set opposite our respective names, do hereby request that the name of _____ be placed upon the official ballot as a candidate for the office of _____ in said city for the term of _____ years at the election to be held in this City on the _____ day of _____ next. We further state that we know said _____ to possess the qualifications necessary for said office and to be in our judgment a fit and proper person to hold said office. Witness our hand on this the _____ day of _____ 19_____." At every such election all ballots to be used by the voters shall be printed and prepared by the said city at its expense. No name shall appear upon said ballot as a candidate for election except the names of such persons as have become candidates according to the provisions of this Act; and no ballot shall be used at any such election except the official ballot prepared as provided in this Act. At every such election the Judge of Probate, sheriff and clerk of the Circuit Court of the county in which such city is situated, or a majority of them acting as an appointing board, must not more than ten nor less than five days before the holding of such election, appoint from the qualified electors of the respective voting places three inspectors and two clerks for each

place of voting, and a returning officer for each precinct, to act at the place of holding elections in each precinct in such city. All candidates of political parties shall in addition to any affidavit required by such party authority make and file in the office of the judge of probate of the county in which said city is situated the affidavit required to be filed by independent candidates. All elections held under this Act shall, where applicable, and not in conflict with this act, be governed and conducted in all respects as provided under Chapter 19 of the Code of Alabama. No petition shall be required of party candidates. Section 12. At every election each voter shall vote for one candidate for each office to be filled and no ballot shall be counted which fails to comply with this requirement, and the candidates receiving the highest number of votes for such office shall be elected thereto. The candidate receiving the highest number of votes in said election shall be declared elected. Section 13. No person shall be eligible to the office of president or member of the board of Commissioners of any city who is not duly qualified to vote in said city. In case any person after he shall have been elected and duly qualified as such commissioner, shall be declared ineligible to hold such office a successor shall be chosen as in case of a vacancy by death, resignation or from any other cause. Section 14. Every person who shall be elected to the office of commissioner in any city organized according to the provisions of this Act, shall before entering upon the discharge of the duties of the office **qualify by** making oath that he is eligible for said office, and will execute the duties of the same according to the best of his knowledge and ability. Said oath shall be administered by the retiring mayor or president of the board of commissioners of such city, or by a notary public. The term of office of said commissioners shall begin on the first Monday of October succeeding the election, except as may be otherwise expressly provided by this act. Each commissioner shall before entering upon the duties of his office, give a good and sufficient bond, which may be executed by a bonding company authorized to do business in Alabama, payable to and for the use and benefit of any such city, in the sum of Five Thousand Dollars, conditioned for the faithful discharge of his duties and that he will save such city harmless from all loss caused by his neglect of duty or misfeasance in office or for the willful expenditure of any moneys of such city in violation of law, and said bond before being accepted, shall be approved by the judge of probate, in and for the county wherein such city is situated. The premiums on said bond shall be paid out of the city treasury. No member of the commission nor any person holding **an office** or profit under them, shall hold any office of profit or trust under the laws of any State or the United States, or hold any county or other city office; nor shall the commission or any commissioner

ever be elected or appointed to any office created by or the compensation of which was increased or fixed by the commission, while he was a member thereof, within two years therefrom.

Section 15. No ordinance passed by the commission, except when otherwise required by the general laws of the State or by the provisions of this Act, except an ordinance for the immediate preservation of the public health or safety, which contains a statement of its urgency and is passed by a unanimous vote of the commission shall go into effect before ten days from time of the final passage, and if during said ten days a petition signed by electors of the City equal in number to at least twenty-five per centum of the entire vote cast at the last general municipal election held in said city protesting against the passage of said ordinance, be presented to the Commission, the same shall thereupon be suspended from going into operation, and it shall be the duty of the commission to reconsider such ordinance, and if the same is not entirely repealed, the commission shall submit the ordinance to the vote of the electors of the city, either at the general election or at a special municipal election to be called for that purpose, and such ordinance shall not go into effect or become operative unless a majority of the qualified electors voting on the same shall vote in favor thereof. Said petition and election shall be in all respects in accordance with the provisions of this Act, except as to the percentage of signers, and be examined and certified to by the clerk in all respects as therein provided. Said board of commissioners shall have the exclusive right to regulate or permit within the police jurisdiction of any such city the playing of any game or amusement on Sunday, and any law in conflict with this provision, in so far as same relates to any city of this class, is hereby repealed.

Section 16. Whenever any vacancy shall occur in the office of the president of the board or any other commissioner of any city organized under the terms of this act then the remaining commissioner of such city shall order an election to be held not less than sixty, nor more than ninety days from the date such vacancy occurs, at which election a successor to said office for his unexpired term shall be voted for. Notice of such election shall be given by publication once a week for three successive weeks in some newspaper published in such city. Any person desiring to become a candidate for such office at such election shall qualify as provided herein and upon his so doing his name shall be placed upon the official ballot used in said election. The person who shall be elected to such office at such election shall qualify for office as soon as practicable and shall hold office for the unexpired term of his predecessor. Provided that whenever any vacancy shall occur in the office of the president or commissioner of any city organized under the terms of this act within twelve months prior to the general city election as provided by said Act, by reason of

death, resignation or removal, then the successor of such commissioner so dying, resigning or removed, shall be elected by the two remaining members of the Board of Commission of such City within thirty days from the date of the death, resignation or removal of such president or commissioner so dying, resigning or removed and such successor shall serve for the unexpired term of his predecessor. Every person who shall be elected to the office of president or commissioner in any such city under the provisions of this Act shall qualify for office as soon as practicable after such election, and shall be clothed with all the duties, responsibilities and powers of such office immediately upon such qualifications. Section 17. Until the first Monday in October 1915 the salary of the president of the commission shall be forty-five hundred dollars (\$4500.00) per annum payable in monthly installments at the end of each calendar month out of the city treasury. After the first Monday in October 1915 and until the first Monday in October 1919, the salary of the president of the commission shall be three thousand dollars per annum payable in monthly installments of two hundred and fifty dollars at the end of every calendar month out of the city treasury. After the first Monday in October 1919 the salary of the president of the commission shall be forty-five hundred dollars per annum payable in equal monthly installments at the end of each calendar month out of the city treasury. After the first Monday in October 1919 the salary of each of the other commissioners shall be thirty-six hundred dollars per annum, which shall be paid out of the city treasury in equal monthly installments at the end of each calendar month. After the first Monday in October 1923, the salary of the President of the commission shall be \$6,000.00 per annum payable in equal monthly installments at the end of each calendar month out of the City Treasury. After the first Monday in October 1923, the salary of each of the other commissioners shall be \$4500.00 per annum payable in equal monthly installments at the end of each calendar month out of the City Treasury, and the President of such Commission shall be paid for ex-officio services in a similar manner the sum of \$1500.00 per annum, and each other commissioner shall receive the sum of \$600.00 per annum on and after the first Monday in October 1927. On and after the first Monday in October 1931 the salary of the president of the commission shall be \$7500.00 per annum payable in equal monthly installments at the end of each calendar month out of the City Treasury. On and after the first Monday in October 1931 the salary of each of the other commissioners shall be \$5100.00 per annum payable in equal monthly installments at the end of each calendar month out of the City Treasury. Said salaries shall include amounts heretofore paid for ex-officio services. Section 18. It shall be legal to hold party mass meetings, con-

ventions or primary elections for the purpose of nominating candidates for Board of Commissioners under this Act. (a) Candidates for president and commissioners of such cities may be nominated in mass meetings, conventions or primary elections as defined in Section 601 of the Code of Alabama, by any political party as defined in Section 602 of the Code of Alabama. (b) All mass meetings, conventions or primary elections under this Act shall be held on the third Monday in March 1931 and every four years thereafter for the nomination of candidates for president and commissioners of said cities, by all political parties as herein defined. (c) The beat or precinct committeemen of the county executive committee of precincts, located within or partly within said cities, shall constitute the executive committee of the political parties as defined in this Act, until committees are elected as herein provided. Said committee shall elect a chairman who shall have all the power and authority of the chairman of other committees of like character. There shall be elected in the first primary held under this act by the different political parties a committee composed of one member from each beat located within or partly within said cities and every four years thereafter. Said committee shall have all power and authority that is exercised by similar committees of the different political parties under Chapter 20 of the Code of Alabama, when not in conflict with this Act. (d) The expense of such primary elections shall be paid in the same manner and to the same extent as is or may be provided by law for the payment of expenses of the city elections held under this Act. (e) The said committee hereby created, or other governing authority, shall, at least twenty days prior to the holding of such primary election, certify to the judges of probate of the counties in which said cities are located, the names of all candidates of their parties running for office, who are to be voted for by the voters of said cities and the judges of probate of said counties, in which said cities are situated, shall in the manner and form provided for, prepare all ballots for such primary election. (f) When it shall be desired by the city executive committee or governing authority of any political party to enter the primary election held under the provision of this Act, said committee shall give notice thereof by advertising in some newspaper published in said city at least once a week for three consecutive weeks prior to such primary elections. (g) All persons who are qualified electors under the general laws of this State shall have the right to participate in such primary elections, subject to such political or other qualifications as may be prescribed by the city executive committee or governing body of such political party. (h) Separate official ballots and other election stationery, supplies for each political party shall be printed and furnished for use at each ward or precinct and shall be of a different color for each of the political parties participating in such

primary election. Across the top of the ballots shall be the words "Official Primary Election Ballot". Beneath this heading shall be printed the year in which said election is held and the words "Democratic Party" or "Republican Party" or other proper party designations. Each group of candidates to be voted on shall be preceded by the designation of the office for which the candidate seeks nomination and in the proper place the words "Vote for One" or "Vote for Two" (or more according to the number to be elected to such office at the ensuing election.) (i) The names of the candidates for each office shall be printed in alphabetical order according to surnames, and the official ballots for primary election shall be printed in substantially the following form. Official Primary Election Ballot.....

Party Ward, District or Precinct Number.....
City of..... Make X Mark Opposite Your
Choice. For President of Commission. Vote for One. John Doe,
Richard Roe. For Commissioners Vote for Two. Buck Doe, John
Doe, Abe Martin, Richard Roe. (j) Where more than one political party has entered such primary election, the proper officials shall furnish to the election officials of each voting place, separate ballot boxes for each party participating in such primary. Said boxes shall be distinctively marked and the ballots of the electors of each party shall be deposited in the box assigned to and designated to that party. The returns, certificates or official list of voters, ballots, tally sheets and affidavits as to challenged votes, after the canvass of the votes shall be deposited in the ballot box of the party to which they relate. (k) At the close of the primary election at each polling place and nowhere else, the inspectors and clerks shall proceed forthwith without adjournment in a manner provided by law, in case of general election, to count the vote and make return thereof as provided by law in the case of returns of general elections. (1) The following are samples of the tally sheets and instructions for the using same in such primary elections. Form..... Primary Election.....

Names of Candidates.....
John Doe, Richard Roe..... Votes Received. (m) The counting of the ballots and the results shall be publicly proclaimed. Separate certificates for each of the political parties entering said primary and results of said election shall be drawn up by said inspectors and clerks at each and every election district, precinct or ward, which shall contain all matters and things provided for in the law regulating general elections. Said certificate in this respect shall be in the following form:.....

We hereby certify that John Doe—Candidate for.....
received Votes. Richard Roe—Candidate for.....
received Votes. Said certificates shall be signed by each

of the inspectors; one copy of same shall be forthwith posted in a conspicuous place at such polling place. A copy shall be deposited with the proper committee or governing authority of each of the political parties participating in the primary at such place as the committee or governing authority shall designate at which to receive such returns. (n) The city executive committee herein created or other governing authority of the parties participating in said primary shall, not later than Friday at noon following the election, receive the returns, canvass the same and declare the results of said primary election. The candidate for president of the Commission receiving a majority of the votes cast shall be declared nominated for the said office. If no candidate shall receive such a majority of votes cast, then the nomination of such office shall be between the two candidates receiving the highest number of votes cast, to be decided in a second primary as herein provided. The candidate or candidates for commissioners receiving the highest number of votes cast for said office shall be declared nominated therefor, provided the votes received by said candidate or candidates shall be the majority of all votes cast for such office. In determining the number of votes cast for such office the total number of votes received by all candidates therefor, divided by the number of candidates to be nominated for such office shall be taken as a total vote cast for such office. If no candidate or if any place or places be not filled in accordance with the above, the nomination shall be decided as follows; twice as many candidates shall be considered as there are places to be filled and only those candidates receiving the highest number of votes shall be eligible to run in the second primary election as herein provided and no other name shall be printed on the ballot. The candidates receiving the majority of votes in such second primary shall be declared nominated for said office. The purpose of providing for a double primary is to insure the majority rule that all candidates of said party shall receive a majority of votes cast in said primary. (o) The said city executive committee or other governing party or authority shall order a second primary election, to be conducted under the same rules and regulations as the first, to be held one week from the date of the said first primary for the nomination of candidates as herein above provided. A ballot commonly known as a single shot shall not be counted. Where two candidates or more are to be nominated for the same office, the voter must express his choice for as many candidates as there are offices to be filled. (p) Within not less than twenty days before the general city election to be held under this act, the said city executive committee or other governing authority shall certify to the Judge of Probate of the county in which said city is situated the name or names of each such nominee of their party as the candidates of such party for the

general city election to the office for which he is nominated. (q) Each candidate for nomination may, at least twenty days before the primary present to the city executive committee of his party a list of election officers desired by him for any one or more of the districts, wards, or precincts; and his city committee shall so far as practicable, make up from the list so presented to it a list of names of election officers, six in number, for each district, ward or precinct, which it will nominate to the appointing board as herein provided for appointment as officers to conduct the primary election, and the city committee shall present the list so made up by it to the said appointing board which appoints the election officers to conduct election for said cities, or at any other lawful time, which appointing board from the list so presented to it by the city committee shall select and appoint the officers to conduct the primary election, observing the above rule as to representation wherever more than one party enters the primary and in the latter case if a city committee has not given a sufficient number of names for a box, then the appointing board shall supply the deficiency from electors of that party. (r) All nominations held under this act may be contested, within five days after the result has been declared, under the same conditions and on the same grounds as provided in the general election laws as to state and county officers, and as provided in this act. Such contest shall be heard and tried by the city executive committee; and whenever there is no city executive committee as above provided, then by any other governing authority of said political party. (s) The chairman of the city committee, upon the filing with him of any contest as herein provided, shall within five days call said committee together at the county seat, in which said city is located, at a time not less than ten days nor more than twenty days after the filing of such contest, to hear and determine the same. (t) Either party to said contest shall have the right of appeal to the county executive committee from the final decision of the city committee upon the same. Notice of such appeal must be filed with the county executive committee within ten days after the determination of such contest by the city executive committee, and at the time of filing such notice, such appellant shall deposite with the said county committee the sum of one hundred dollars to cover such costs and expenses as may be incurred by the county executive committee to hear and determine said appeal. (u) That the City executive committee or other governing authority of any political party whenever it deems it desirable or necessary may require an enrollment of the voters of such party in such city at any time not less than thirty days nor more than ninety days from the date of holding any primary election under this act, and at such primary elections only those voters of such political party who are lawfully enrolled shall be permitted

to participate therein. This enrollment shall be made by a committee of three qualified party voters designated by said city executive committee or other governing authority of such party in such city. Such enrollment of voters shall be made at the county seat of the county in which said city is located, after giving at least twenty days notice of the time and place of such enrollment. In the event that any applicant is refused enrollment, then upon his sworn statement that he is a qualified voter of the city and possesses the qualifications prescribed by the party calling such primary election, then his name shall thereupon be enrolled upon said list of voters. Any person who wilfully and falsely makes any such sworn statement shall be guilty of perjury. Each applicant for enrollment shall give his name, age, the postoffice address and the number of his voting precinct, ward or district. The list of names enrolled shall be arranged by the enrolling committee alphabetically by precinct or voting place and a copy of such list shall be filed by such enrolling committee with the city executive committee at least twenty days prior to the day of the holding of such primary election for which the enrollment is made. The city executive committee shall furnish to the inspectors for such primary election in each precinct one or more copies of the enrolled voters for such precinct and such list of enrolled voters shall be those and only those entitled to participate in such primary election provided that any voter who may be otherwise qualified to participate in such primary election, but because of sickness, absence from the city or because of some other absolutely unavoidable reason was unable to secure enrollment during the period prescribed by the committee for enrollment under the provisions of this act, upon his sworn statement in writing setting out in full the reasons which unavoidable prevented his enrollment, shall by the inspectors be permitted to participate in such election even though his name is not upon the enrolled list of voters in such precinct. Any person who makes any sworn statement knowing such statement to be false shall be guilty of perjury. (v) Any qualified elector of this state whose name at the time of such primary election appears on the official list of qualified voters in said city and who may at any primary election hereafter held pursuant to law in this state, by reason of his regular business and in the performance of his regular duties, be absent from the city in which he is a qualified elector, may vote in such primary election in the manner and under the regulations hereinafter prescribed with like effect as if he were casting his vote in person at his regular and proper polling place. (w) The absent voter so entitled to vote, provided at the time he requests such ballot his name is on the official list of qualified electors in such city, may procure from the judge of probate of the county of his residence, an official ballot of the party with which such voter

is affiliated, or with which he desired to affiliate in such election, and such voter shall make and subscribe the oath or affidavit hereinafter set out, and attach the same to his ballot, and forward the said ballot and affidavit in a sealed envelope by mail, postage prepaid, or otherwise, to the chairman of the city executive committee of the political party with which such voter is affiliated, or other authority as provided in sections 679 and 680 of the Code of Alabama. The chairman of the city executive committee, or other authority as provided, shall endorse on said envelope over his signature the date and hour of the receipt thereof by him, and shall safely keep the said ballot without breaking the seal thereof, and deliver the same on election day to the officers of election at the voting place of said absent voter, when and where said election officers shall open said envelope, and in the event the name of such absentee voter appears on the official list of qualified voters for said city and for said precinct or district, shall check his name off of such official voting list and cause the said ballot to be duly and properly recorded, subject, however, to challenge as in other cases provided for. The same shall be handled in all respects as if the said absentee voter were present and voting in person. (x) The judge of probate of any county in this state in which said city is situated, upon application of any qualified elector of his city, not more than twenty nor less than five days before any primary election is to be held in this state, shall deliver or forward immediately upon request of any voter in person, by agent, letter or wire to such applicant an official ballot and printed form of oath as provided for in the preceding section, for use in such election, with an envelope addressed to the chairman, or in case of vacancy in the chairmanship or disability of the chairman of the city executive committee of the party holding said election, to the secretary thereof; and in the event of a vacancy in the chairmanship and secretaryship or disability of the said chairman and secretary, then the envelope shall be directed to the judge of probate of the county in which said city is situated. The envelope in which such absent voter transmits his ballot shall be addressed to the chairman of the city executive committee of the political party with which said absent voter is affiliated, or other authority as provided for under the second preceding section, and shall be endorsed on the left hand upper corner thereof substantially as follows: "Absent Voters Ballot". Primary election to be held on the _____ day of _____ 19____. From (name of voter), elector of precinct or district _____, city of _____, State of Alabama. (y) The form of oath or affidavit which shall be attached to and accompany such ballot by such absent voter shall be sworn to before an officer authorized to take acknowledgments to deeds and shall be substantially as follows: State of Alabama. County of _____

..... Before me, a
 for said county and state this day personally appeared
, who is (made) known to me, and who, being duly sworn,
 deposes and says: that his name is;
 that he is a bona fide resident and qualified elector of precinct or
 district City of State
 of Alabama; that he has not voted in the primary election to be
 held on the day of, 19..... and is entitled
 to vote therein as a member of the party.
 That he will be absent from the city of his residence on the day of
 the primary by reason of his regular business and in the perform-
 ance of his regular duties. That he subscribes to all the conditions
 and qualifications laid down by his party committee as a requisite
 for participation in said primary, and that he is familiar with such
 conditions and qualifications. (Signature of affiant.) Sworn to
 and subscribed before me this day of 19....."
 The officer before whom such affidavit is made shall make the fol-
 lowing jurat: "The above named
 appeared before me on the day of 19.....
 and being first duly sworn, did subscribe to the above affidavit:
 I further certify that said applicant is
 known to me personally as being the identical party he claims to
 be." (z) All primary elections held under this act shall, where
 applicable, and not in conflict with this act, be governed and con-
 ducted in all respects as provided under Chapter 20 of the Code
 of Alabama. Section 19. Every commissioner elected by popular
 vote in any such city shall, within thirty days after qualifying, file
 with the Judge of Probate of the county and the same shall be
 published at least once in a newspaper of general circulation in such
 city, his sworn itemized statement of all his election and campaign-
 ing expenses and by whom such funds were contributed. Any
 violation of the provisions of this section shall be a misdemeanor
 punishable by a fine of not more than three hundred dollars and
 be a ground for removal from office. Section 20. No officer or em-
 ployee elected or appointed in any such city shall be interested, di-
 rectly or indirectly, in any contract for work or material, for the
 profits thereof, or service to be furnished or performed by the city;
 and no such officer or employee shall be interested, directly or in-
 directly, in any contract for work or materials or the profits there-
 of or services to be furnished or performed for any person, firm or
 corporation operating inter-urban, railway, street railway, gas
 works, electric light or power plant, heating plant, telegraph line,
 or telephone exchange, within the territorial limits of said city. No
 such commissioner or other official of such city shall be interested
 in, or any employee or attorney of any corporation operating any
 public service utility hereinabove mentioned and described in this

act within said city. No such officer or employee shall accept or receive, directly or indirectly, from any person, firm or corporation, operating within the territorial limits of said city, any interurban railway, railway, street railway, gas works, water works, electric light or power plant, heating plant, telegraph line, or telephone exchange, or other business using or operating under a public franchise, any frank, free pass, free ticket or free service, or accept or receive, directly or indirectly, from any such person, firm or corporation, any gift or other thing of value or any service upon terms more favorable than are granted to the public generally. Any violations of the provisions of this act shall be a misdemeanor, and upon conviction thereof, the guilty person shall be punished by a fine of not less than one hundred nor more than three hundred dollars, and may be imprisoned in the county jail for not more than ninety days. Every such contract or agreement shall be void. Such prohibition of free transportation shall not apply to policemen or firemen in uniform, nor to policemen in the discharge of their duty, nor shall any free service to city officials heretofore provided by any franchise or ordinance be affected by this act. Section 21. That all police officers and policemen, all officers of the fire department and firemen in any city organized under the provisions of this act who shall have honorably served in and been a member of the police or fire department of any such city, or of the municipal organization for twenty years continuously, which such city has immediately succeeded, and who shall have attained the age of fifty years, shall upon his application in writing to the commission of such city, be relieved and retired from active service in such police department or fire department, upon half pay, that is to say, said policeman or fireman upon being so retired, shall receive and be paid for and during his natural life an amount of money equal to one-half the salary or pay which such policeman or fireman was receiving at the time of making such application, the same to be paid monthly out of any funds that may be in the treasury of such city, not otherwise appropriated, provided, that the amount to be paid to any one employee hereunder shall not exceed forty dollars per month. That any officer or policeman or fireman in any such city who shall have become permanently disabled, by reason of any injury received while in the service as a member of said police or fire department, shall, upon his application in writing to the board of commissioners be relieved and retired from service in said police or fire department upon half pay, that is to say such fireman or policeman upon being so retired shall receive each month an amount of money equal to one-half the salary or pay which such fireman or policeman was receiving at the time of receiving such injury while in the discharge of his duties as an officer, the same to be paid, monthly, out of any funds in the city treasury. The board

of commissioners shall determine and pass upon whether such disability complained of is permanent or not, and to this end shall receive any evidence in testimony offered by such applicant and may hear and consider any other testimony or evidence which the said commission or other body shall cause to come before it; and shall render judgment in said cause, which shall be kept in the minutes of the proceedings of such commission, whether it shall come to the knowledge of such commission that any fireman or policeman whom they had adjudged to be permanently disabled has recovered from such disability, so as to enable him to earn a livelihood, then the commission may reconsider its former action and withdraw from such fireman or policeman for the future, the aforesaid half pay. Provided further, that the monthly payment to any fireman or policeman on account of permanent disability as provided in this act shall not exceed as to any one such fireman or policeman, the sum of forty dollars per month. The board of commissioners is authorized to make all necessary or proper rules and regulations effectuating the intention of this section. Any officer or policeman who shall avail himself of the provisions of this act, shall nevertheless remain members of said police department and while relieved of regular duty shall constitute a reserve of said police department, and be at all times subject to the performance of any duty that may be required by the governing body of said city; provided that no such fireman or policeman who possesses independent means of livelihood shall come within the provisions of this act.

Section 22. At the end of each year the commission shall cause a full and complete examination of all the books and accounts of the city to be made by competent accountants and shall publish the results of such examination.

Section 23. Any person offering to give a bribe, either in money or other consideration, to any voter for the purpose of influencing his vote at any election provided for in this act, or any voter entitled to vote at such election, receiving and accepting such bribe or other consideration, any person making false answer to any of the provisions of this act relative to his qualifications to vote at said election (any election) any person willfully voting or offering to vote at such election who has not been a resident of this State for two years next preceding such election, or who is not twenty-one years of age, or not a citizen of the United States, or knowing himself not to be a qualified voter of such precinct, where he offers to vote, any person knowingly procuring, aiding or abetting any violations thereof, shall be deemed guilty of a misdemeanor, and upon conviction shall be fined a sum of not less than one hundred dollars nor more than five hundred dollars, and may be imprisoned in the county jail for not less than ten nor more than ninety days.

Section 24. The appointment and employment of each and every officer and employee of said city, ex-

cept the health officer and such person as may be employed by him to enforce quarantine, and such other officers and employees, as are designated in this act and the removal of said officers and employees shall be approved by the president of the Board of Commissioners before such appointment, employment or removal shall become effective. Section 25. Effective the first Monday in October 1919, there is hereby created in every such city the officer of recorder of such city, and it shall be the duty of the board of commissioners of such city as soon after said date as is practicable to elect a recorder for such city, who shall have all the powers and jurisdiction which now is or hereafter may be conferred by law upon recorders of cities in the State of Alabama. Such recorder shall hold office at the pleasure of the board of commissioners and said board of commissioners shall fix his compensation and the manner and time of its payment. Whenever the recorder shall be unable for any reason to perform the duties of his office then the president of said board of commissioners shall designate some person possessing the qualifications of recorder, as provided in this act, to act during the disability of the said recorder, and such person designated, when acting as recorder shall have all the powers and jurisdiction conferred by law upon recorders in the State of Alabama. No fines, penalties or other form of punishment fixed by such recorder shall be set aside except with the consent and sanction of the president of the commission in writing, which consent shall set forth the reason for such action. Provided that no person shall be eligible to the office of recorder of such city who is not a duly qualified elector of such city and who shall not have been admitted to the practice of law in the State of Alabama. Section 26. All general laws of this State regulating and prescribing the conduct of municipal elections, and the qualifications and registration of voters thereat, shall apply to elections hereunder except so far as expressly modified herein. Section 27. The judge of probate of the county in which are located the cities covered by this act shall record in a well bound book kept for that purpose all papers required to be filed with him under the terms of this act, and shall receive therefor the compensation allowed by law for recording deeds. Section 28. It shall be unlawful for any candidate for commissioner, or for any other person in his behalf, to hire, or pay, or agree to pay, any person to solicit votes at the polls on election, and unlawful for any person to accept such hire, or make such contract for pay to solicit votes for commissioners, and any person violating this act shall be guilty of a misdemeanor, and may be punished by a fine not to exceed five hundred dollars for each offense, and the candidate violating this act shall hereby be disqualified for and rendered ineligible to the office sought. Section 29. No candidate for the office of commissioner can lawfully expend more than

three thousand dollars of his own funds, and of funds contributed by others in aiding his candidacy in any one election. Any person violating the provisions of this act shall hereby be disqualified from holding said office, if successful and his election may be contested on that ground. No person but a qualified voter shall sign any petition authorized by this act. All petitions must contain the certificate of the probate judge as to the requisite number of voters required and it shall be the duty of the probate judge of the county to ascertain that such petition does contain the requisite number of voters and attach his certificate to such a petition. The probate judge shall receive as compensation for such service ten cents for each name up to and including one hundred and two cents for each name over that number which said petition may contain. Security for the payment of such cost to be approved by the probate judge must be given at the time of the presentation of the petition by the person or persons filing the same. Section 30. The petitions provided by this Act may be by a number of separate instruments as well as by one instrument. No person but a qualified voter shall sign any petition provided by this act. And no person shall sign the name of another to any such petition whether with or without authority; and no person shall sign more than one separate instrument as a petition for any single purpose herein provided. Any violation of the foregoing provisions of this act shall constitute a misdemeanor punishable by fine not to exceed three hundred dollars. No qualified voter who has signed any petition provided for herein can withdraw his signature. Section 31. Any city which shall have operated for more than four years under the provisions of this act may abandon such organization hereunder, and accept the provision of the general laws of the State then applicable to cities of its population by proceeding as follows: Upon the petition of not less than three thousand qualified electors of such city a special election shall be called at which the following proposition only shall be submitted: "Shall the City of _____ abandon its present organization and become a city under the general laws governing cities of like population?" If a majority of the votes cast at such special election shall be in favor of such proposition the officers elected at the next succeeding election shall be those then prescribed by the general laws of the State for cities of like population, and upon the qualification of such officers, such city shall become a city under such general law of the State and the terms of office of the city under the commission shall expire. The sufficiency of such petition shall be determined, the election order and the conduct and the results declared as provided in this act for other special elections, in so far as the provisions thereof are applicable. If any section or provision of this Act shall be held to be void or unconstitutional, it shall not affect or destroy the

validity or constitutionality of any other section or provision of such act which is not of itself void or unconstitutional. Section 32. Every officer or employee of any city organized under the provisions of this act and who has been or may be selected or elected by the board of commissioners, of such city, or whose compensation either wholly or in part is paid out of the treasury of such city, shall be selected or elected by the board of commissioners of such city, shall hold office at the pleasure of the board of commissioners and shall be removable by the Board of Commissioners. Section 33. That an Act entitled, 'An Act to provide and create a Commission form of Municipal Government and to establish same in all cities of Alabama which now have, or which may hereafter have a population of as much as Twenty-Five Thousand (25,000) and less than Fifty Thousand (50,000) people according to the last Federal Census, or any such census which may hereafter be taken; to regulate the selection and election of Commissioners and their terms of office; to fix their powers, duties and compensation; to punish improper conduct in connection with elections and petitions hereunder; to abolish police commissioners, aldermen, and certain other city officials and otherwise provide for the creation and maintenance of said Commission form of government, (Approved September 18, 1923)' as amended by subsequent Acts, be and the same is hereby repealed. That 'An Act to amend Section 22 of an Act to provide and create a commission form of Municipal Government and to establish same in all cities of Alabama which now have or which may hereafter have a population of as much as Twenty-five Thousand (25,000) and less than Fifty Thousand (50,000) people according to the last Federal Census, or any such census which may hereafter be taken; to regulate the selection and election of Commissioners and their terms of office; to fix their powers, duties and compensation; to punish improper conduct in connection with elections and petitions hereunder; to abolish police commissioners, aldermen, and certain other city officials, and otherwise provide for the creation and maintenance of said Commission form of government, (Approved September 18, 1923)' which became a law under Section 125 of the Constitution of Alabama, be and the same is hereby repealed. That, 'An Act to amend Section 17 of an Act entitled, an Act to provide and create a commission form of Municipal Government and to establish same in all cities of Alabama which now have, or which may hereafter have, a population of as much as Twenty-five Thousand (25,000) and less than Fifty Thousand (50,000) people according to the last Federal Census, or any such census which may hereafter be taken; to regulate the selection and election of Commissioners and their terms of office; to fix their powers, duties and compensation; to punish improper conduct in connection with elections and petitions

hereunder; to abolish police commissioners, aldermen, and certain other city officials, and otherwise provide for the creation and maintenance of said Commission form of Government Approved September 18, 1923, (Approved August 27, 1927)', be and the same is hereby repealed. That an Act entiled, 'An Act to amend the title and Sections 1, 7, 8, 11, 12, 14, 16, 18, and 25 of an Act entitled, An Act to provide and create a Commission form of Municipal Government and to establish same in all cities of Alabama, which now have, or which may hereafter have, a population of as much as Twenty-five Thousand (25,000) and less than Fifty Thousand (50,000) people according to the last Federal Census, or any such census which may hereafter be taken; to regulate the selection and election of Commissioners and their terms of office; to fix their powers, duties, and compensation; to punish improper conduct in connection with elections and petitions hereunder; to abolish police commissioners, aldermen and certain other city officials, and otherwise provide for the creation and maintenance of said Commission form of Government, approved September 18, 1923, (Approved February 9, 1931)', be and the same is hereby repealed. Section 34. There is hereby created a pension system which applies to all employees, except members of the regularly organized and paid Fire Departments, of all cities in the State of Alabama coming within the terms of this Act. Section 35. Any employee of any city governed by the provisions of this Act, except members of the regularly organized and paid Fire Department of any such City, who shall have been in the service of such City, or in the service of any City which such City has immediately succeeded, for as long as twenty consecutive years and shall have attained the age of fifty years, or who shall have been in the service thereof for as long as twenty-five years, the last ten years of which have been continuous, and shall have attained the age of fifty years, upon making written application therefor to the Board of Commissioners or other governing body of any such City, shall without medical examination or disability, be relieved and retired from active service for such City, and, upon such retirement, such retired employee shall be paid, and the Board of Commissioners or other governing body of any such City shall order and direct the payment to such employee, monthly, during his or her natural life, a sum equal to one-half of the average monthly compensation or salary received by such employee for the City's fiscal year in which he or she received the largest salary during the five year period next preceding his or her retirement. In computing the length of service of any employee who is an applicant for retirement under the provisions hereof by reason of having been in the service of any such City for as long as twenty-five years, the last ten years of which have been continuous, such applicant shall not be allowed credit

for service unless the last ten years of service shall have been continuous and unless the other fifteen years for which such applicant seeks credit shall have been in terms of not less than five continuous years. Payments hereunder to retired employees shall be made in the same manner and at the same times and from the same funds as payments of salaries and compensation are made to the regular employees of any such City. Any employee who shall avail himself of the provisions hereof shall nevertheless remain a member or employee of the department of such City to which he or she was assigned at the time of his or her retirement, or of such other department to which such retired employee may be assigned by the governing body of such City, and while relieved of regular duty such employee shall constitute a reserve or extra employee of such department and shall be at all times subject to the performance of any duty that may be required by the governing body of such City. Section 36. The Board of Commissioners, or other governing body, of the respective cities governed by the provisions of this Act shall hear and decide all applications for pensions under this Act and the decisions on such applications shall be final and conclusive and not subject to review or reversal except by such authority itself. Section 37. The provisions hereof shall apply to all persons who are now or who may hereafter be in the employ of the respective cities governed by this Act, but payment of pensions hereunder shall not commence until the first day of January, 1940. Section 38. There shall be kept by the City Clerk of each City governed by the provisions of this Act a book to be known as the "Register of Retired Employees". Such book shall contain a full and complete record of the action of the Board of Commissioners, or other governing body, of each such City, in retiring any and all employees under this Act, together with the name of each employee so retired, the date such employee entered service with such City, the periods of his or her employment, the date of retirement and the reason for such retirement. The retirement of any employee under the provisions hereof shall be by resolution of the Board of Commissioners, or other governing body, of the City which shall be spread upon the minutes of the meeting of such Board of Commissioners, or other governing body. Section 39. In case of any dispute arising out of this Act or over the provisions hereof, or the interpretation of any of the provisions hereof, the decision of the Board of Commissioners or other governing body of the respective cities shall be final and conclusive. Section 40. No part of any pension paid or subject to payment under the provisions of this Act shall, before or after its payment to a beneficiary hereunder, be seized or held or be in any wise subject to garnishment or levy of execution or attachment or other process issued out of or by any court of this State, or any other State, so far as same may be

sought to respond to the payment or satisfaction in whole or in part, of any debt, damage, demand, claim, judgment or decree against any beneficiary under said pension system, but shall be exempt therefrom; nor shall the whole or any part of any such pension, or the right thereto, be assigned, and any assignment thereof shall be void and unenforceable. Section 41. This Act shall never be construed nor enforced so as to authorize any municipal authorities to grant any extra compensation, fee, or allowance to any public officer, servant, employee or agent after service shall have been rendered, nor shall it ever be construed or enforced so as to authorize payment to any person of the salary of a deceased officer beyond the date of his death, nor shall it ever be construed or enforced so as to authorize the retirement of any officer on pay or part pay or make any grant to any retiring officer, but that all funds or moneys paid out or expended under and by virtue of this Act shall be paid for services to be performed or duties to be discharged in the future by the persons to whom such payments are made. The governing body of any municipality within the provisions of this Act may, however, assign duties and impose services to be performed by the persons for whose benefit this Act is intended and may make appropriations and payments to such persons in consideration of the performance of such services or the discharge of such duties so imposed upon them. Section 42. That any City once coming within the terms and provisions of and operating under this Act which would, by reason of a change in population based on a Federal Population Census, be placed in a classification different from that fixed by this Act so as to bring such City without the terms and provisions of this Act, shall nevertheless continue in all respects to operate under and be governed by the terms and provisions of this Act until the ninetieth day after the first day of the first regular legislative session of the Legislature of Alabama held next after the publication by the Federal Government of the Federal Population Census bringing about such change in classification or re-classification of such City. Section 43. That all laws and parts of laws, both local and general, in conflict with the provisions of this Act are hereby repealed.

Section 3. If any section or provision of this Act shall be held or declared to be unconstitutional or void, such holding shall not affect or destroy the validity or constitutionality of any other section or provision of this Act which is not in and of itself void or unconstitutional.

Section 4. This Act shall take effect immediately upon its passage and approval by the Governor, or its otherwise becoming law in the manner provided by the Constitution.

Approved September 22, 1939.

AN ACT

To regulate the borrowing of money by cities having a population of one hundred thousand persons, or more, according to the last or any succeeding federal census.

Be it Enacted by the Legislature of Alabama:

Section 1. Definitions. The following words and phrases, wherever used in this act, shall have the meanings respectively ascribed to them in this section, unless the context plainly indicates a different meaning, viz: The term "city" shall mean a city having a population of one hundred thousand persons, or more, according to the last or any succeeding federal census. The term "bonds" shall mean bonds authorized by vote of the qualified electors of such city, bonds secured by special assessments, revenue bonds and refunding bonds. The term "base amount" shall mean one million one hundred and fifty thousand dollars. The term "limited percentage" shall mean one hundred per centum for the calendar year 1939 and five per centum less than one hundred per centum for each succeeding calendar year thereafter, so that the "limited percentage" for the calendar year 1940 shall be ninety-five per centum and the "limited percentage" for the calendar year 1941 shall be ninety per centum, and so on until the limited percentage shall reach zero.

Section 2. Limitation On Borrowing. Every such city is prohibited from causing to be outstanding at any one time in any calendar year any obligation or obligations of such city for borrowed money aggregating, in principal amount, more than the limited percentage for such calendar year of the base amount, and it shall be a misdemeanor, punishable as such, for any member of the governing body of any such city to knowingly participate in any authorization of the issuance or making of any obligation of such city which he knows would exceed the limit herein prescribed.

Section 3. Exemptions From Limitation. There shall be exempt from the limit herein prescribed, and from inclusion in the base amount, the principal and interest of obligations heretofore or hereafter issued or made of the following classes, viz: (a) bonds; (b) obligations for temporary loans to be retired out of the proceeds of sale of bonds whose issuance has been previously fully authorized; (c) obligations for temporary loans for financing costs of improvements made or to be made under any improvement ordinance previously duly adopted, such such obligations for such temporary loans are to be retired out of the proceeds of sale of special assessment bonds to be authorized and issued to obtain money with which to pay costs of such improvements; and (d) obligations for temporary loans for one or more special emergen-

cies declared to exist by resolution of the governing body of such city unanimously adopted by all the members thereof and concurred in by the Chief of the Division of Local Finance of the State Department of Finance. The finding of a special emergency or emergencies by the Chief of the Division of Local Finance of the State Department of Finance shall be made only after he has at the expense of the city caused to be advertised in every daily paper published in the city for two consecutive weeks that he has been called upon to pass upon the question of said emergency and stating the facts on which said emergency is by the City Governing Body said to have arisen. After said advertising, he shall set a date and conduct a public hearing and hear all parties at interest, and before said loan can be made he must certify that in his opinion the said emergency, if it exists, is of such a character that it has not in the past and will not in the future probably arise in the ordinary and usual course of the city's business and could not by the exercise of the highest degree of care and foresight have been anticipated by the governing body of such city.

Approved September 19, 1939

No. 540)

(H. 1032—Langan

AN ACT

To Provide that membership in any national, State or local committee of any political party, or the holding of an office in a partisan or political club, shall not disqualify a person to hold any position to which any county-wide Civil Service System is or may be applicable, under any law now or hereafter existing, providing for a county-wide Civil Service System in any County in the State of Alabama, having according to the last or any future Federal Census, a population in excess of 100,000 inhabitants and less than 300,000 inhabitants, provided said person held the membership or office in said political party on the date of the adoption of the said Civil Service System.

Be it Enacted by the Legislature of the State of Alabama:

Section 1. That membership in any national, State or local Committee of any political party, or the holding of an office in a partisan or political club shall not disqualify a person to hold any position to which any county-wide Civil Service System is or may be applicable, under any law now or hereafter existing, providing for a County-wide Civil Service System in any County in the State of Alabama, having according to the last or any future Federal Census, a population in excess of 100,000 inhabitants and less than 300,000 inhabitants, provided said person held the membership or office in said political party on the date of the adoption of the Civil Service System.

Section 2: All laws or parts of laws, general or local, insofar as the same might be in conflict herewith are hereby repealed.

Section 3. That this act shall become effective immediately upon its passage and approval by the Governor or its otherwise becoming a law.

Approved September 22, 1939.

No. 544)

(S. 157—Thomas

AN ACT

To authorize the use of \$2,000.00 set apart for the purchase of a homestead under Section 7943 or Section 7944 of the Code of 1923, for other uses or purposes than the purchase of a homestead where upon a proper hearing and proof it is determined by the Probate Judge or the Judge of the Circuit Court, in Equity, that such other use or purpose will be to the best interests of said widow or minor child or children; providing for the hearing of said cause and the appointment of a guardian ad litem to represent the interests of said minor or minors.

Be it Enacted by the Legislature of Alabama:

Section 1. That whenever it shall be made to appear to the Probate Judge or to the Judge of the Circuit Court, in Equity, by petition duly sworn to and filed in either of said Courts, that \$2,000.00 has been set apart, paid or reserved under the provisions of Section 7943 or Section 7944 of Code of 1923, and that said amount is inadequate to purchase a homestead as provided in either of said Sections, under all the circumstances of the case, or, that for other reasons or considerations it would manifestly be to the best interests of the widow and minor child or children, or either, that said \$2,000.00 be paid to the widow for the use and support of said widow and minor child or children, or either, or if no widow, to the guardian of said minors, and such facts being specifically set out in a petition, duly sworn to, and filed in either of said Courts; the said Court shall then set the proceeding down for a hearing. If on a hearing the Court finds that it is to the best interests of the widow and minor child or children, or either, to grant said petition, and that it will be to their best interests that said petition be granted under all the conditions and circumstances of the case or that the said sum is inadequate for the purchase of a homestead all the circumstances of the case being considered, the Court shall then make a decree granting said petition, with such provisions, conditions or limitations as to the Court shall seem proper in the premises. Provided that the widow or guardian shall give bond in double the amount of said sum with good and sufficient sureties to be approved by the Court granting the decree, conditioned, as in the case of guardian and ward, that the said fund shall be faithfully kept and used exclusively for the support and maintenance of the widow and

minor children, and for the education of the minor children, if any; and the widow or guardian, as the case may be, shall make an annual report to the court of all receipts and expenditures relating to said fund, which report is subject to the approval of the Court.

Section 2. In all proceedings brought under the provisions of this Act, the Court shall set said cause down for a hearing and appoint a guardian ad litem to represent the interests of the minors, if any, and he shall put in issue the facts set forth in the petition and demand proof thereof.

Section 3. All laws and parts of laws in conflict with the provisions of this Act are hereby repealed.

Approved September 22, 1939.

No. 545)

(S. 173—Stakely

AN ACT

To appropriate the sum of Three Thousand Dollars to the United Daughters of the Confederacy, which sum will complete a \$20,000 heroic bronze statue of Jefferson Davis, designed and executed by an internationally known sculptor, to be placed on the grounds of the State Capitol.

Be it Enacted by the Legislature of Alabama:

Section 1. That there be and is hereby appropriated out of any sums in the State Treasury not otherwise appropriated the sum of Three Thousand Dollars, to the United Daughters of the Confederacy, which sum will complete a \$20,000 heroic bronze statue of Jefferson Davis, designed and executed by an internationally known sculptor, to be placed on the grounds of the State Capitol.

Section 2. The said sum hereinabove appropriated shall be paid out by the State Treasurer upon the proper warrant by the proper State officials, and shall be paid to the Treasurer, or such other person as may be designated by the United Daughters of the Confederacy to receive said sum for it, for the purpose of completing the payment for the erection of the monument to the great Southern Soldier and Statesman, Jefferson Davis.

Section 3. This Act shall take effect upon its approval by the Governor.

Approved September 21, 1939.

No. 547)

(S. 258—Poole

AN ACT

To provide for the payment of the salary and traveling expenses of the State Highway Director out of the funds in the State Treasury to the credit of the State Highway Department; and to appropriate from said funds a sufficient sum for the payment of the same:

Be it Enacted by the Legislature of Alabama:

Section 1. That from and after the passage of this Act the salary and traveling expenses of the State Highway Director shall be paid out of the funds in the State Treasury to the credit of the State Highway Department as other salaries and expenses of the State Highway Department are paid.

Section 2. That there is hereby appropriated out of the funds in the State Treasury to the credit of the State Highway Department a sum of money sufficient to pay the salary and traveling expenses of the State Highway Director.

Section 3. That all laws and parts of laws, general, special or local, in conflict with the provisions of this Act be and the same are hereby expressly repealed.

Section 4. That this Act shall become effective immediately upon its passage and approval by the Governor or its otherwise becoming a law.

Approved September 19, 1939.

No. 548)

(S. 268—Holmes

AN ACT

To create and establish a Board to examine persons engaging in professional work or services pertaining to entomological work, pathological work, horticultural and floricultural work, and tree surgery work, to define its powers and duties; to define entomological work, pathological work, horticultural work and floricultural work and tree surgery work; to provide for the making of rules and regulations by the State Department of Agriculture pertaining to the examination and licensing of persons engaged in such work or services; to provide for the examination and licensing of persons engaged in such work or services; to provide for the giving of bond by persons engaged in such work or services; and to provide that persons violating the provisions of this Act shall be guilty of a misdemeanor.

Be it Enacted by the Legislature of Alabama:

Section 1. There is hereby created and established a Board to examine persons engaging in professional work or services pertaining to entomological work, pathological work, horticultural and floricultural work and tree surgery work as hereinafter defined. Said Board shall be hereinafter in this Act referred to as, The Examining Board. The Examining Board shall consist of the Commissioner of Agriculture and Industries, as its Chairman; the Entomologist, the Horticulturist, and the Plant Pathologist of the Alabama Experiment Station. The members of the Examining Board shall receive no compensation for their services but shall be reimbursed for actual expenses incurred in attending its meetings, which expenses are to be paid from the Agricultural fund.

Section 2. Entomological work, pathological work, horticultural and floricultural work, and tree surgery work are defined as follows: (a) Entomological Work. Receiving fees for advice or prescriptions for the control or eradication of any insect pest or rodent. Receiving fees for actual spraying, dusting, fumigating, or any other methods used for the control or eradication of any insect pest or rodent. (b) Pathological Work. Receiving fees for advice or prescriptions for the control or eradication of any plant disease. Receiving fees for actual spraying or any other methods used for the control or eradication of any plant disease. (c) Horticultural and Floricultural Work. Receiving fees for landscaping and setting of plants, or for the sale of any plants for which the seller contracts to render future services. (d) Tree Surgery Work. Receiving fees for pruning or cavity work of shrubs and trees or treating shrubs and trees in any manner whatsoever to retard or repair decay, etc., and to prolong the life of the shrubs or trees so treated.

Section 3. The State Board of Agriculture and Industries shall have the power and it shall be its duty to make rules and regulations to govern the qualifications and practicing of persons engaged in professional services or work as herein defined and to prevent fraudulent practices in said professional services or work.

Section 4. That for the purpose of this Act the word "person" shall be construed to mean an individual, a partnership, or a corporation.

Section 5. That any person desiring to engage in professional services or work as herein defined shall obtain from the Commissioner of Agriculture and Industries a permit or license to engage in such professional services or work and the application for such permit or license shall be in writing and on such blank forms as may be required. The fee for the permit or license shall be \$10, payable to the Commissioner of Agriculture and Industries, which shall accompany the application for permit or license; provided, however, that nurserymen or dealers in nursery stock who have paid the fee required by Section 292 of the Agricultural Code of 1927 shall not be required to pay the fee herein provided or submit said fee with his application for permit or license. The State Board of Agriculture and Industries shall require applicants to submit statements as to training and experience in professional practice and may further require applicants to pass such tests or examinations as the Examining Board may prescribe. If applicant fails to pass the examination, the fee shall be returned to him. This permit or license expires on September 30, the end of the fiscal year for which it is issued.

Section 6. The State Board of Agriculture and Industries may require an applicant to furnish a satisfactory fidelity bond payable to the State of Alabama and filed with the Commissioner of Agri-

culture and Industries, and conditioned that the principal therein named shall honestly conduct said business or profession; *provided* that in no case shall a bond exceeding \$2,500 be required. A copy of said bond, duly certified by the Commissioner of Agriculture and Industries shall be received as evidence in all of the courts of this State without further proof. Any person having a right of action against such person arising out of the practice of the professional work or services as herein defined may bring suit against the principal and sureties of such bond. Should the surety furnished become unsatisfactory said person shall execute a new bond, and should he fail to do so it shall be the duty of the Commissioner of Agriculture and Industries to cancel his permit and give him notice of said fact, and it shall be unlawful thereafter for such person to engage in said business without obtaining a new permit.

Section 7. That any person violating any of the provisions of this Act or the rules and regulations made by the State Board of Agriculture and Industries pursuant thereto shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than five hundred dollars, or by imprisonment for not more than six months, or by both such fine and imprisonment at the discretion of the court having jurisdiction.

Section 8. That this Act shall apply only to persons soliciting work and engaged in the above work as a business or profession; but in no event shall it be construed so as to apply to any person employed by the owners or others in possession of property to work under his supervision in grafting, spraying, dusting cotton or any such work.

Section 9. That if any clause, sentence, paragraph, section or part of this Act shall for any reason be declared unconstitutional by any court of competent jurisdiction, it shall not affect the validity or constitutionality of any remaining sentence, clause, paragraph, section or part of this Act.

Section 10. All laws and parts of laws in conflict herewith are hereby repealed.

Section 11. This Act shall take effect immediately upon its passage and approval by the Governor.

Approved September 21, 1939.

No. 549)

AN ACT

(S. 270—Henderson

To authorize the employment of a full-time County Engineer and to fix the minimum and maximum compensation of such office; to prescribe qualifications of such office; to prescribe his duties and authority; to authorize the State Highway Director to supplement funds for the payment of salary; to repeal all laws in conflict and to fix the time when this Act shall become effective.

Be it Enacted by the Legislature of Alabama:

Section 1. **AUTHORIZATION TO APPOINT AND SALARY:** That the Court of County Commissioners or like Governing Bodies of the several counties are, and shall be, authorized to appoint a County Engineer who shall engage in no other employment and the amount of whose salary shall be such sum, not exceeding \$4,000.00 per annum, as may be fixed by the Court of County Commissioners, Board of Revenue, or other like governing body of the county, payable in equal monthly installments from the County Road and Highway Funds of the County, as shown by County Contracts made with County Engineer and entered of record.

Section 2. **QUALIFICATIONS:** That said County Engineer shall be qualified to practice engineering and land surveying in Alabama and in addition shall have not less than three years experience in the maintenance and construction of highways.

Section 3. **DUTIES UNDER SUPERVISION OF COUNTY GOVERNING BODY:** That it shall be the duty of said County Engineer, subject to the approval and direction of the Court of County Commissioners or like Governing Body of the County,—To:—(1) Employ, supervise and direct such assistants as are necessary to properly maintain and construct the county public roads, highways and bridges; (2) Perform such engineering and surveying service as may be required and to prepare and maintain the necessary maps and records; (3) Maintain the necessary accounting records to reflect the cost of the County Highway System, and (4) Perform all other duties necessary and incident to the operation of a county highway system.

Section 4. **STATE PARTICIPATION IN SALARY:**—That when any county has established the office of County Engineer in accordance with the provisions of this Act, the State Highway Director, upon application of the Court of County Commissioners or like governing body, may authorize the expenditure out of the available funds of the State Highway Department of an amount equal to one-half of the salary of said County engineer per annum to apply to payment of the salary of such County Engineer herein provided for; provided, however that the amount contributed or paid by the State Highway Department on the salary of said county engineer shall be of the same proportionate amount for each county employing a county engineer as provided in this Act. The State Highway Director may discontinue such payment after thirty days notice in writing to the said Court of County Commissioners or like governing body, and to the County Engineer, unless otherwise agreed to in writing with the County by contract made and entered upon the records of the County Governing Body.

Section 4½. No contract of employment or appointment to office of such engineer can exceed two years.

Section 5. PROVISIONS FOR CIVIL SERVICE OR MERIT SYSTEM IN COUNTIES HAVING SUCH SYSTEMS:—In those counties whose employees are governed by a civil service or merit system law, the provisions of such law shall remain in full force and effect.

Section 6. NOT MANDATORY: That this Act is not mandatory but is discretionary, remedial, cumulative, and provides additional authority for the betterment of all County Public Road Systems.

Section 7. REPEALING CLAUSE:—That all laws or parts of laws, except local laws providing for a County engineer, Road and Bridge Commissioner, County Superintendent of roads or like officers, which conflict with the provisions of this Act, be and the same are hereby expressly repealed.

Section 8. SEVERANCE:—That if any part of this Act is declared unconstitutional, it shall not affect any part of the Act not declared unconstitutional.

Section 9. EFFECTIVE DATE:—That this Act shall become effective on October 1st, 1939.

Approved September 19, 1939.

No. 550)

(S. 308—Simpson)

AN ACT

To further regulate and control officers and employees of the State of Alabama in the classified and unclassified service and to further regulate the pay plan for such officers and employees in the service of the State of Alabama.

Be it Enacted by the Legislature of Alabama:

Section 1. That all officers and employees who would be subject to those provisions of the Merit System Act, approved March 2, 1939, relating to the method of fixing compensation and the rate of compensation for services rendered, except for the provisions of an act entitled "An Act to amend the title and the body of an Act of the Legislature of Alabama entitled 'An Act to provide for the fixing of salaries in certain executive departments of the State by authorizing the Governor to fix the salaries of the officers and employees of the Governor's office, including the Governor's Legal Advisor, the Director, Commissioner or Chief executive officer of the Banking Department, the State Highway Commission, the State Tax Commission, the State Board of Administration and associate member thereof, the Public Welfare Department, the Unemployment Compensation Commission, the Bureau of Insurance, the Alabama Highway Patrol, the Alcoholic Beverage Control Board, the Department of Labor, the State Docks Commission, the De-

partment of Military and Naval Affairs, the Chief Mine Inspector, the State Forestry Commission, the Alabama Real Estate Commission, the Comptroller, the Peoples Public Service Attorney, and the Capitol Custodian, or the Director, Commissioner, or Chief Executive Officer of such other executive departments of the State as may hereafter be created in addition to or in lieu of the foregoing named departments; and to authorize the Director, Commissioner, or Chief Executive Officer of the foregoing departments or such departments as may hereafter be created in addition to or in lieu of said departments, with the approval of the Governor, to fix the salaries of all subordinate officers and employees in their respective departments, provided that no salary shall be in excess of Five Thousand Seven Hundred Dollars (\$5,700.00) per annum; and to repeal all laws in conflict with the provisions of this Act,' approved February 16, 1939, so as to read as follows:," approved March 3, 1939, shall be subject to the provisions of the said Merit System Act, approved March 2, 1939, relating to the method of fixing compensation and the rate of compensation for services rendered, the provisions of the said act approved March 3, 1939, to the contrary notwithstanding.

Section 2. That all laws and parts of laws, general, special or local, in conflict with the provisions of this act be and the same are hereby repealed.

Section 3. That this act shall go into effect upon its passage and approval by the Governor, or its otherwise becoming a law.

Approved September 19, 1939.

No. 551)

(S. 329—Stakely

AN ACT

To amend Sections 10 and 11 of an Act Entitled "An Act to Provide For the Organization, Regulation and Government Of The State Bar Including Admissions and Disbarments Of Lawyers," approved August 9th, 1923, as said Sections 10 and 11 of said Act Were Heretofore Amended By an Act approved June 6th, 1931.

Be it Enacted by the Legislature of Alabama:

Section 1: That Section 10 and 11 of an Act entitled an "Act to provide for the organization, regulation and government of the State Bar, including admissions and disbarments of lawyers" approved August 9th, 1923, as said Section 10 and 11 of said Act were heretofore amended by an Act approved June 6th, 1931, be and they are severally hereby amended to read as follows: Section 10. All applicants for admission to the Bar shall pay a fee of Ten and no/100 (\$10.00) Dollars to the State Treasurer, and applicants who are required to be examined by the Board of Examiners of the State

Bar shall pay an additional fee of Fifteen and no/100 (\$15.00) Dollars all of which fees shall become a part of the separate fund in the succeeding section provided for, and file the Treasurer's receipt therefor with their application. Section 11: License Fee. Every Member of the State Bar shall, prior to the first day of October in each year in the same manner as required by law for the payment of license fees, pay as a license fee the sum of Twenty-Five (\$25.00) Dollars, but no license shall be paid to the County. Ten (\$10.00) Dollars of the license herein levied shall remain in the State Treasury as a part of the General Fund and Fifteen (\$15.00) Dollars thereof, together with the fees paid by applicants for admission as provided for in the preceding section, shall constitute a separate fund to be disbursed by the State Treasurer on the order of the Board of Commissions of the State Bar. The said fund shall be paid out by the Treasurer as heretofore, or if directed by said Board, on receipt of a voucher therefor and a copy of the order of the Board of Commissioners, directing the payment of such fund to the signer of said receipt. As soon after the first day in November in each year as practicable, the State Treasurer shall certify to the secretary of the Board of Commissioners the names of attorneys who have paid such license fee, and the Judge of Probate of each county shall certify to the Judges of the Circuit Court having jurisdiction in such County the names of the attorneys who have paid such license fee, and no attorneys who are in default in the payment of such fee shall be recognized in the Courts of Alabama or in the voting or transaction of business by the State Bar as being in good standing until they have paid the required license fee. Provided that no lawyer shall be required to pay a license until the first day of October following the expiration of two years from his admission to the Bar.

Approved September 19, 1939

No. 552)

(S. 338—Simpson

AN ACT

To further provide for a Merit System for Officers and employees in the State Service and to make more effective the provisions of the Merit System Act, approved March 2, 1939.

Be it Enacted by the Legislature of Alabama:

Section 1, That all provisions of the Merit System Act, approved March 2, 1939, shall be applicable to all of the State Officers and employees covered thereby at the time of its enactment, any other statutes or provisions of law subsequently enacted to the contrary notwithstanding.

Section 2. That all laws and parts of laws, general, special or local, in conflict with the provisions of this Act are hereby repealed.

Section 3. That this Act shall go into effect upon its passage and approval by the Governor or its otherwise becoming a law.

Approved September 19, 1939.

No. 553)

(S. 346—Hildreth

AN ACT

To amend Sections 9 and 11 of an Act entitled "An Act to provide for a finding by the Legislature that the production of milk and proper control of its marketing is in the public interest and is necessary for adequate and proper supply of a wholesome food throughout all seasons of the year in the interest of general health and well-being of the public generally; to create a State Milk Control Board; to provide for the appointment and removal of its members; to define its powers and duties; to fix the compensation of its members; to empower the State Milk Control Board with authority to employ necessary help to fix their compensation; to make and enforce necessary rules and regulations for the enforcement of said law; to cooperate with other governmental agencies tending to bring about a uniform system of milk control regulations; to provide for the creation and dissolution of milk sheds, or their diminution or enlargement from time to time; to provide for a review of any order or ruling of the Board; to provide for the fixation, regulation and collection of license fees for milk dealers, distributors, producer-distributors, producers and stores; to regulate and fix minimum or maximum prices; to provide for the issuance of licenses; to aid in the prosecution of any violation of statutory laws that are in existence or that may be amended or enacted for the preservation of the property of those engaged in the dairy industry or the marketing of dairy products; to enforce the rules, findings and decrees of the State Milk Control Board, defining certain terms and commodities such as: Milk Control Board, person, milk dealer, distributor, producer, milk shed, processor, milk, fluid milk, consumer, store, producer-distributor, wholesale producer, licensee; providing for the repeal of all laws in conflict with this Act and establish the manner of the taking effect of this Act," approved March 20, 1939.

Be it Enacted by the Legislature of Alabama:

Section 1. That Section 9 of An Act entitled "An Act to provide for a finding by the Legislature that the production of milk and proper control of its marketing is in the public interest and is necessary for adequate and proper supply of a wholesome food throughout all seasons of the year in the interest of general health and well-being of the public generally; to create a State Milk Control Board; to provide for the appointment and removal of its members; to define its powers and duties; to fix the compensation of its members; to empower the State Milk Control Board with authority to employ necessary help, to fix their compensation; to make and enforce necessary rules and regulations for the enforcement of said law; to cooperate with other governmental

agencies tending to bring about a uniform system of milk control regulations; to provide for the creation and dissolution of milk sheds, or their diminution or enlargement from time to time; to provide for a review of any order or ruling of the Board; to provide for the fixation, regulation and collection of license fees for milk dealers, distributors, producer-distributors, producers and stores; to regulate and fix minimum or maximum prices; to provide for the issuance of licenses; to aid in the prosecution of any violation of statutory laws that are in existence or that may be amended or enacted for the preservation of the property of those engaged in the dairy industry or the marketing of dairy products; to enforce the rules, findings and decrees of the State Milk Control Board, defining certain terms and commodities such as: Milk Control Board, person, milk dealer, distributor, producer, milk shed, processor, milk, fluid milk, consumer, store, producer-distributor, wholesale producer, licensee; providing for the repeal of all laws in conflict with this Act and establish the manner of the taking effect of this Act." Approved March 20, 1939 be and the same is hereby amended so as to read as follows: Section 9. LICENSES TO PRODUCERS, PRODUCER-DISTRIBUTORS, MILK DEALERS, STORES AND DISTRIBUTORS. In any Milk Shed where the provisions of this Act once apply, it shall be unlawful for any producer, producer-distributor, store, milk dealer, or distributor to produce, sell, buy, handle, or distribute milk unless such person be duly licensed as provided by this Act. It shall be unlawful for any such person to buy, sell, handle, or distribute milk which he knows or has reason to believe has been previously dealt with or handled in violation of any provision of this Act, provided, however, any Producer in any milk shed where the provisions of this Act apply may file a written declaration under oath in the office of the Milk Control Board setting forth that he does not desire a license as a Producer or as a Producer-Distributor, that he desires to sell milk on the premises where produced, to persons furnishing their own containers, for consumption as fluid milk by the purchaser to whom the same is delivered in person, or by the immediate household of such purchaser, at prices not conforming to those fixed by the Milk Control Board, all milk so sold to be produced and handled in conformity with the health laws and regulations pertaining to milk in force in the locality wherein such premises are located. Thereafter it shall be lawful for such Producer without a license as a Producer or a Producer-Distributor to sell milk on the premises where produced to persons furnishing their own containers for consumption as fluid milk by the purchaser to whom such milk is delivered, or by the immediate household of such purchaser, at prices not conforming to those fixed by the Board, all milk so sold having been produced and handled in conformity with the health laws and regulations per-

taining to milk in force in the locality wherein such premises are located; and until such declaration be withdrawn in the manner hereinafter provided, such Producer shall not be eligible to apply for or to receive a license as a Producer or Producer-Distributor; none of the dairy animals, facilities or equipment used in connection with the production of milk by a Producer who has made and filed a declaration as herein provided, may be used by any licensed Producer or Producer-Distributor while such declaration remains in force. Subject to the foregoing exceptions as to licenses and price fixing, all the provisions of the Milk Control Act shall apply to Producers who have made and filed declarations as herein provided as fully and to the same extent as though such Producers were duly licensed by the Milk Control Board. Any Producer who has made and filed such a declaration as herein provided for may cancel and withdraw the same at any time by written declaration to that effect under oath filed in the office of the Milk Control Board. The Milk Control Board shall prepare and make available to all persons desiring to sell milk under the provisions of this section forms for the written declaration under oath herein required.

Section 2. That Section 11 of said Act approved March 20, 1939 be and the same hereby is amended so as to read as follows: Section 11. LICENSE FEES. All persons required by this Act to be licensed shall pay a yearly license fee computed upon the following rates: Stores . . Two and One Half Dollars (\$2.50) each per year. Any person operating two or more stores shall obtain a license for each store and pay a license fee of Two and One Half Dollars (\$2.50) per year on each store. Producers . . An Amount equal to seventy-five cents for each cow in his dairy herd or herds, dry or milking, over two years old, provided that each person, firm or corporation who owns or operates two (2) cows or less shall be exempt from the payment of a license fee as a producer. For the purpose of determining the total amount of such producers fee, the Board shall calculate same upon the largest number of cows in each producers herd or herds at any time during the license year, and in the event any producer acquires or uses additional cows, bringing his dairy herd or herds in excess of such largest number during the license year, he shall pay an additional fee of seventy-five cents for each additional cow. Producer-Distributor . . Where a producer-distributor buys milk in addition to that produced by him, he shall pay a license fee as a producer as provided above, and as a distributor on the amount of milk he buys, provided, however, that, in the event he purchases milk, only a part of the year, he shall pay a distributors license only on the quarters of a year in which he purchases milk, each quarter or part thereof to be at the rate of one quarter year license, as a distributor. Distributor . . Distributors who handle less than fifty gallons per day . . a license fee of Ten (\$10.00) Dollars per year. Distributors

who handle more than fifty gallons per day, but less than one hundred gallons per day . . a license fee of Twenty-five (\$25.00) Dollars. Distributors who handle more than one hundred gallons per day, but less than five hundred gallons per day . . a license fee of Sixty-two Dollars and Fifty cents (\$62.50). Distributors who handle more than five hundred gallons, but less than one thousand gallons per day . . a license fee of One Hundred Twenty-five (\$125.00) Dollars. Distributors who handle more than one thousand, but less than three thousand gallons per day . . a license fee of Three Hundred (\$300.00) Dollars per year. Distributors who handle more than three thousand gallons per day a license fee of Four Hundred (\$400.00) Dollars per year. The Board may in its discretion reduce, but not increase, any of the above rates. This Act shall not apply to a person who produces milk for his own use or for the use of his own household and who does not sell any milk produced by him, provided further that the exemption from the payment of a license herein provided for of a person owning or operating two (2) cows or less shall not exempt said person from complying with the provisions of this Act or the orders of the Milk Control Board, regulating the price of milk in a milk shed where said person sells any of the milk produced by him from such cows.

Approved September 21, 1939.

No. 554)

(S. 366—Simpson

AN ACT

To amend Subsection (4) of Subdivision (a) of Section 10 of the Merit System Act, approved March 2, 1939.

Be it Enacted by the Legislature of Alabama:

Section 1. That Subsection (4) of Subdivision (a) of Section 10 of the Merit System Act approved March 2, 1939, be and the same is hereby amended to read as follows: (4) Members of Boards and Commissions, whether appointed or self-perpetuating, and heads of departments required by law to be appointed by the Governor, or by Boards or Commissions with the approval of the Governor.

Section 2. That all laws and parts of laws, general, special or local, in conflict with the provisions of this act are hereby repealed.

Section 3. That this act shall go into effect upon its passage and approval by the Governor.

Approved September 19, 1939.

AN ACT

To prescribe additional powers, duties and authorities of the Department of Conservation and the Director of Conservation with reference to the operation and maintenance of State Parks and the acquisition of lands for such Parks; to authorize the execution of contracts arising out of the use and ownership of such lands and the waters thereof; to authorize the adoption of rules and regulations governing the use of State Parks and to provide penalties for the violation thereof; to provide for roads and highways therein; to authorize counties and municipalities to aid in the promotion of the State Park System; and to create a State Park Fund.

Be it Enacted by the Legislature of Alabama:

Section 1. That for the purposes of the Department of Conservation of the State of Alabama: (a) The term "park" shall mean any area of land primarily valuable for recreational purposes because of its scenic, historic, prehistoric, archaeologic, scientific, or other distinctive characteristics, or nature features. (b) The terms "monument" and "historic site" shall mean any area of land, with or without buildings, structures, or other objects thereon, wholly or primarily of historic, prehistoric, archaeologic, scientific, or commemorative interest or value. (c) The term "parkway" shall mean any elongated strip of land suitable for recreation and a pleasure vehicle road to which the owners or lessees of abutting property shall have no right of direct access. (d) The term "land" shall mean upland, land under water, and every estate, interest, and right, legal or equitable, in land or water. All parks, parkways, monuments and historic sites now owned or hereafter established or acquired by the State shall constitute the State Park system (except Mound State Monument, the First White House of the Confederacy, and all monuments and historic sites now located on State-owned land in the City of Montgomery), and are hereby reserved for the enjoyment and benefit of the people. Provided, however, that nothing herein contained shall be construed as restricting or limiting in any manner the power and authority now granted by law to the Director of Conservation to sell, lease or exchange any park, parkway, monument or historic site now owned or hereafter established or acquired by the State.

Section 2. It shall be the duty of the Director of Conservation acting through the Division of Parks, Monuments and Historic Sites, to preserve, improve, protect and maintain all parks, parkways, monuments and historic sites now owned or hereafter acquired or established by the State of Alabama (except Mound State Monument, the First White House of the Confederacy, and all monuments and historic sites now located on State-owned land in the City of Montgomery).

Section 3. The Director of Conservation, acting through the Division of Parks, Monuments and Historic Sites, shall have the following powers and authorities: (a) To acquire in the name of the State of Alabama by purchase, lease, agreement, license, condemnation or otherwise, land deemed necessary or desirable to be preserved, improved, protected and maintained as a part of the State Park System; and to accept in his discretion, in fee or otherwise, land donated, entrusted, conveyed or devised to the State for like purposes, and with like discretion to accept gifts, contributions or bequests of money or other personal property of value to be used or expended for the benefit of the State Park System. (b) To contract and make cooperative agreements with the Federal Government, and with states, counties, municipalities, corporations, associations, or individuals, for the purpose of acquiring, planning, establishing, developing, utilizing, operating, protecting or maintaining any public park, parkway, monument or historic site. (c) To construct and operate suitable public service privileges and conveniences on any land embraced within the State Park system, and to charge and collect reasonable fees for the use of the same, and in his discretion to enter into contracts for the operation of any such privilege or convenience, and to enter into contracts with any person or corporation engaged in the business of supplying the public with water for commercial, industrial or domestic consumption, granting the right to construct a dam across any stream lying wholly or partially in any State Park, with the buildings, works and lines necessary and convenient to impound the flow of any such stream, to overflow such lands as may be necessary, and to conduct such flow through and out of such park, and granting such person or corporation the right to use the flow of such stream for such purposes, upon such terms and conditions as are deemed to be in the public interest. All moneys derived from any such privilege, convenience or contract, together with such sums as may otherwise be derived from the operation of the State Park system, shall be paid into the State Treasury to the credit of the State Park Fund hereinafter created. (d) To establish and promulgate and from time to time alter, amend or repeal rules and regulations governing the preservation, protection and use of the State Park system and the property thereon and to preserve the peace therein. Any person who violates any rule or regulation so established and promulgated shall be deemed guilty of a misdemeanor and shall be punished by a fine of not more than \$500 or imprisonment for not exceeding six months, or both, and may be adjudged to pay all costs of the proceedings. The Chief of the Division of Parks, Monuments and Historic Sites shall have and he is hereby vested with full police power to prefer charges against, and to make arrests of any person or persons violating any such rule or regulation. The Director of Con-

servation shall have full authority to designate any other employee or employees of the said Division of Parks, Monuments and Historic Sites as deputy police officers and who shall have full authority to prefer charges against and/or to make arrests of any person or persons violating any rule or regulation established or promulgated by the Director of Conservation. (e) To initiate and conduct a public program of recreational activities. (f) To prepare, print and distribute printed matter relating to and descriptive of the State Park system.

Section 4. The State Highway Department is hereby authorized and empowered upon the request of the Director of Conservation, to construct, re-construct and maintain roads leading from a State highway to any land included in the State Park system. The State Highway Director shall confer with the Director of Conservation before deciding upon the location and character of any such improvement. The State Highway Department is hereby authorized and empowered, upon the request of the Director of Conservation, to construct, reconstruct and maintain roads within the boundary of any land or lands included in the State Park system. The construction and reconstruction of such roads shall be in accordance with the development plan for the said land or lands as approved by the Director of Conservation. Such roads shall be maintained in such manner as may be agreed upon between the State Highway Director and the Director of Conservation. The costs of such construction, reconstruction and maintenance shall be paid from the State Highway Fund.

Section 5. Any county, and any incorporated city or town in the State of Alabama is hereby authorized and empowered to donate, convey and grant to the State of Alabama any land owned by it or which it may hereafter acquire, to become a part of the State Park system. Any such county, city or town may appropriate moneys to the Department of Conservation to be used and expended in extending, improving, operating or maintaining the State Park system.

Section 6. There is hereby created a State Park Fund. All moneys received from gifts or bequests, or from county or municipal appropriations shall be deposited in the State Treasury to the credit of said fund, and shall be used and expended by the Director of Conservation in accordance with the terms of the gift, bequest or donation from which the said moneys are derived, and in the absence of any such terms shall be expended by the Director of Conservation in furtherance of any of the provisions of this Act.

Section 7. This act is hereby declared to be cumulative to and as amendatory of existing powers, authorities and duties of the Department of Conservation and the Director of Conservation, and as repealing only such laws or parts of laws, whether general, special or local, as may be inconsistent with the provisions hereof.

Section 8. Should any part of this act be declared invalid for any reason, such invalidity shall not affect any other valid section or provision hereof.

Section 9. This act shall take effect immediately upon its approval by the Governor.

Approved September 22, 1939.

No. 558)

(H. 439—Smyer

AN ACT

To amend Sub-division (4) of Section 345.18 of an Act entitled "An Act to Provide for the General Revenue of the State of Alabama," approved July 10, 1935.

Be it Enacted by the Legislature of Alabama:

1. Sub-division (4) of Section 345.18 of the Act entitled "An Act to provide for the General Revenue of the State of Alabama," approved July 10, 1935, is hereby amended to read as follows: (4) In cases under paragraph (d), subdivision 1 of this section, and in the case of any income of an estate during the period of administration or settlement permitted by subdivision (3) to be deducted from the net income upon which tax is to be paid by the fiduciary, the tax shall not be paid by the fiduciary, but there shall be included in computing the net income of each beneficiary his distributive share whether distributed or not, of the net income of the estate or trust for the taxable year, or, if his net income for the taxable year is computed upon the basis of a period different from that upon the basis of which the net income of the estate or trust is computed, then his distributive share of the net income of the estate or trust for any accounting period of such estate or trust ending within the fiscal year upon the basis of which such beneficiary's net income is computed. In such cases the income of a beneficiary of such estate or trust not a resident shall be taxable to the extent provided in Section 345.10, subdivision (3), for individuals other than residents, but only to the extent that the income of such trust or estate shall arise from sources within the state. For the purpose of determining any income tax due by any non-resident beneficiary of any such trust or estate, the income from intangible personal property shall not be construed to arise from sources within the state merely because the title and ownership of such intangible personal property be vested in a resident fiduciary or trust or estate or the evidence of ownership thereof be located within the state.

2. This Act shall take effect immediately upon enactment."

Approved September 19, 1939.

No. 559)

(H. 521—Toomer

AN ACT

To authorize the sale of all real property, livestock, equipment and farm produce owned by the State of Alabama at farms now designated demonstration farms, and located at or near those high schools formerly known as State secondary agricultural schools of Alabama, under provisions of an Act entitled "An Act to provide for the establishment of a demonstration farm at or near each of the State secondary agricultural schools of Alabama, to provide for the necessary physical plants and equipment for such farms, to authorize and empower county boards of revenue or county commissioners or other bodies having similar jurisdiction in each county to appropriate funds for aiding in the purchase of land and equipment for said farms, to make appropriations for the maintenance of said farms and provide for their management and control," approved August 30, 1927; to designate the Director of Finance of the State of Alabama as agent for the State in effecting such sales, and to provide the manner and method of making the same; to provide for meeting the expenses incurred in effecting such sales; to provide for the disposition of funds accruing from such sales and any other funds in the hands of the demonstration farm treasurer at the time of its sale; to provide for the operation of any or all of such demonstration farms until the same are sold; and to authorize the State Board of Education to retain for school purposes any land now a part of any of said demonstration farms.

Be it Enacted by the Legislature of Alabama:

Section 1. That after the passage and approval of this Act, the Director of Finance of the State of Alabama shall offer for sale, and, with the approval of the Governor, shall sell all real property, livestock, equipment, and farm produce owned by the State of Alabama at those farms now designated as State Secondary Agricultural School Demonstration Farms and located at or near each of the high schools formerly known as State Secondary Agricultural Schools of Alabama at Jackson, Clarke County; Abbeville, Henry County; Sylacauga, Talladega County; Wetumpka, Elmore County; Hamilton, Marion County; Athens, Limestone County; Blountsville, Blount County; Lineville, Clay County; and Cuba, Sumter County.

Section 2. That the Director of Finance shall, with the approval of the Governor, sell said property of the State of Alabama, both real and personal, in the same manner and in accordance with the laws of this State for the sale of other property of the State of Alabama, both real and personal.

Section 3. That the funds accruing from the sale of real property, livestock, equipment and farm produce at each of the said demonstration farms shall be covered into the State Treasury to the credit of the demonstration farm sold. After the sale of all real property, livestock, equipment and farm produce at any of such demonstration farms, the funds accruing therefrom shall be paid out on requisition of the State Superintendent of Education on author-

ity of the State Board of Education in the manner and for the purposes hereafter provided.

Section 4. That the cost of effecting the sale of the said property of the State of Alabama at any of said demonstration farms shall be paid out of the moneys accruing from such sale. All outstanding obligations against any demonstration farm, which have been approved by the proper authority, shall be preferred claim against the funds accruing from the sale of the real property, livestock, equipment and farm produce of said demonstration farm. The balance of the fund, or any portion thereof necessary, accruing from the sale of the real property, livestock, equipment and farm produce of any of said demonstration farms shall be used to reimburse any local governmental unit, county or municipality, in such an amount as said local governmental unit, or units, may have contributed, as shown by record, toward the purchase of land for the establishment of said demonstration farms or for use in purchasing, constructing or repairing buildings or equipment for said demonstration farms. Any moneys remaining after the payment of all amounts due to such local governmental units shall be paid into the treasury of the school board in administrative control of the school to which the farm was formerly attached, to be used by said board, together with any other funds to the credit of that farm, in constructing and repairing buildings, and for purchasing equipment for the school to which the farm was attached.

Section 5. All of said demonstration farms shall continue until sold to be operated by the Alabama Polytechnic Institute in cooperation with the State Board of Education as provided by law and under the plan of cooperation now in effect between the Alabama Polytechnic Institute and the State Board of Education for the operation of the same.

Section 6. That the State Board of Education is authorized to retain for school purposes any land now a part of any of said demonstration farms, if, in the opinion of County Boards of Education where said farms are located, such land is needed for such purposes, and the land not needed for school purposes shall constitute the area which shall be sold.

Section 7. That all laws and parts of laws, general, special or local, in conflict with the provisions of this Act are hereby expressly repealed.

Section 8. That this Act shall become effective immediately upon its passage and approval by the Governor or its otherwise becoming a law.

Approved September 21, 1939.

No. 560)

(H. 576—Welch & Smyer

AN ACT

To provide for reducing the amount of the bond of an executor, administrator, or guardian pending final settlement of the administration of such estate.

Be it Enacted by the Legislature of Alabama as Follows:

Section 1. That upon the filing of any partial settlement by the Executor under a will, or the Administrator of the estate of a deceased person, or the Guardian of a minor, or a person of unsound mind in the court in which such estate is pending, such Executor, Administrator, or Guardian, may pray for a reduction in the amount of his or her bond as a fiduciary, and thereupon the court must set a day for the hearing of such partial settlement, and must cause notices to be issued to all parties in interest as is now provided by law for final settlements of such estates. And on the day set for hearing, the court may fix the amount to which the bond shall be reduced, which shall be determined as now provided by law for such bonds.

Approved September 21, 1939.

No. 561)

(H. 608—Miller

AN ACT

To better enforce the collection of the gasoline tax: to prohibit the entry of motor vehicles into this State containing more than twenty gallons of gasoline in their tank or tanks until the State tax thereon shall have been paid and to authorize the Commissioner of Revenue to make the necessary reasonable rules and regulations for the enforcement of this act; to provide penalties for the violation of the provisions of this act.

Be it Enacted by the Legislature of Alabama:

Section 1. On and after the passage of this act, it shall be unlawful for any person, corporation, co-partnership or company to drive or cause to be driven into the State of Alabama any motor vehicle carrying over twenty gallons of gasoline or substitutes therefor in the gasoline tank provided by the manufacturer as the container for motor fuel or in any reservoir or auxiliary tank or tanks or other container to be used as motor fuel in said motor vehicle until the tax levied by the State of Alabama thereon has been paid. The provisions of this Act shall not apply to motor vehicles coming into Alabama from States where no limit is fixed by law on the quantity of motor fuel a motor vehicle may carry in the fuel tank thereof, to be used exclusively in the operation of such motor vehicles over the highways of Alabama in compliance with the laws of this State.

Section 2. Any person, corporation, co-partnership or company violating the provisions of this act shall be guilty of a misdemeanor and upon conviction therefor shall be fined in any sum not exceeding \$100.00. Each load carried into the State shall constitute a separate offense.

Section 3. The Commissioner of Revenue shall make the necessary reasonable rules and regulations for the enforcement of the provisions of this act.

Section 4. It is ascertained that this act is necessary to better enforce the collection of the gasoline tax levied by the State of Alabama.

Section 5. The State Tax Commission of Alabama is hereby authorized to make reciprocal agreements with other states for an exchange of rights for the operation of motor vehicles that will be considered as a fair exchange of rights and privileges. The said rights and privileges to be in effect as long as both contracting parties recognize the rights of the other. The above reciprocal agreement can be annulled on a notice issued to either party by the other party thereto within thirty (30) days thereafter.

Section 6. That this Act shall take effect from and after its passage and approval by the Governor.

Approved September 22, 1939.

No. 562)

(H. 620—Weston

AN ACT

To provide for a Forest Protection Fund.

Be it Enacted by the Legislature of Alabama:

Section 1. That for the purpose of receiving the financial and supervisory cooperation of the Division of Forestry of the Department of Conservation of the State of Alabama in forest protection any county governing body is empowered, authorized and required to assess and levy a special annual tax not to exceed four cents (4c) per acre against the forested acreage of the county subject to the conditions set forth in Section 2 of this act.

Section 2. That for the purpose of receiving the financial and supervisory cooperation of the Division of Forestry of the Department of Conservation of the State of Alabama in forest protection, the county governing body is required to make, assess and levy a special annual tax upon all said lands in the county, or any definitely described portion thereof, immediately upon receipt of a petition, so requesting, signed by a majority of the freeholders of the county, or definitely described portion thereof, said area to be known as a forest protection area.

Section 3. That said tax shall remain the same from year to year, except that it may be changed or discontinued upon receipt of a petition, so requesting, signed by a majority of the freeholders of the county, or definitely described portion thereof, involved; or by the Division of Forestry of the Department of Conservation of the State of Alabama.

Section 4. That the tax so assessed shall be collected as other taxes are collected and remitted to the State Treasurer and placed in a "Forest Protection Fund" to be expended by the Division of Forestry of the Department of Conservation of the State of Alabama for forest fire protection in the county, or definitely described portion thereof against which the tax has been assessed.

Section 5. The Division of Forestry of the Department of Conservation is hereby empowered and directed to establish and designate such forest protection areas prior to the submission of the petition provided for in Section 2 of this act.

Section 6. That by forest land, as used in this Act, is meant any land which supports a forest growth, or which under prevailing natural and economic conditions may be expected to support such a growth in the future, or which is being used or reserved for any forest purpose.

Section 7. The Division of Forestry of the Department of Conservation is hereby empowered and directed to furnish to the county governing body in which it is proposed to establish a forest protection area, a list of the landowners within said proposed forest protection area, said list to show the total amount of forest land owned by each landowner subject to the forest protection tax within said forest protection area.

Section 8. The tax provided for in Section 1 of this Act shall not be assessed and levied until such time as the County Board of Equalization shall have first inspected and reviewed such property and shall have designated the same forest land and such lands must have been returned to or listed with the tax assessor of the county where located as forest land, and have been placed on the tax rolls for ad valorem taxation as other forest lands.

Section 9. That all laws and parts of laws, general, special or local, in conflict with the provisions of this Act be and the same are hereby expressly repealed.

Section 10. That this Act shall become effective upon its passage and approval by the Governor or its otherwise becoming a law.

Approved September 21, 1939.

No. 563)

(H. 693—Brown of Covington

AN ACT

To provide for and submit to the qualified electors of the State of Alabama an amendment to the Constitution of said state providing that each municipal corporation in said state whose annual ad valorem tax rate is otherwise limited by the Constitution or any amendment thereto to less than one per centum (1%) shall have the further power to levy and collect an additional tax or taxes to such extent that the total annual ad valorem tax rate of such municipal corporation shall not exceed one per centum (1%), such additional tax or taxes to be levied only when and for such purposes as shall be authorized by the qualified electors of such municipal corporation at an election called for such purpose, the adoption of such amendment not to affect, limit, modify, abridge, or impair the power of any such municipal corporation to levy and collect any special school taxes which it may now or hereafter have the right to levy and collect; and to limit the holding of such elections so that when a proposition for the levy of such additional tax or taxes is submitted to the electors and is defeated then no second election for the same purpose shall be held in one year thereafter.

Be it Enacted by the Legislature of Alabama:

Section 1. The amendment to the Constitution of Alabama hereinafter set out is hereby proposed and an election of the qualified electors of said state is hereby ordered upon such proposed amendment and the day hereby appointed for such election is the day of the next general election held in said state more than three months after the adjournment of the session of the Legislature at which such amendment is proposed. Said amendment is as follows: "Each municipal corporation in this state whose annual ad valorem tax rate is otherwise limited by the Constitution or any amendment thereto to less than one per centum (1%) of the value of the property situated therein as assessed for state taxation during the preceding year shall have, in addition to the power to levy and collect such ad valorem tax each year at the rate authorized immediately prior to the adoption of this amendment, the further power to levy and collect each year an additional tax or taxes to such extent that the total ad valorem tax rate of such municipal corporation shall not exceed one per centum (1%) in any one year on the property situated therein based on the valuation of such property as assessed for state taxation during the preceding year; provided, that before any such additional tax may be so levied and collected a majority of the qualified electors of any such municipal corporation voting at an election called for that purpose shall vote in favor of the levy thereof; provided further, that the total ad valorem tax or taxes to be levied and collected by an such municipal corporation shall not exceed one per centum (1%) in any one year; and provided further, that the adoption of this amendment shall in no wise affect, limit, modify, abridge or impair the power, authority or right of any such municipal corporation to levy and collect the special

school taxes now or hereafter vested or conferred upon them, or any of them, under the Constitution or any amendment thereto, which said special school taxes shall be in excess of said one per centum (1%) herein provided for. Each election held under the provisions hereof shall be ordered, held, canvassed and may be contested in the same manner as is or may be provided by the law applicable to municipal corporations for elections to authorize the issuance of municipal bonds. The ballots used at such elections shall specify the purpose for which the proposed additional rate of taxation shall be authorized and shall contain the words 'For.....% additional rate of taxation'; and 'Against.....% additional rate of taxation'; the additional rate of taxation proposed to be shown in the blank space provided therefor. The voter shall record his choice, whether for or against the additional rate shown, by placing a cross mark before or after the words expressing his choice. The proceeds of any such additional tax so authorized at any such election shall be used only for the purpose for which the same shall be authorized at such election. Elections to authorize the levy of such additional tax may be held as often as ordered by the governing body of the municipality, but when a proposition is submitted to the electors to levy such additional tax for a specific purpose and such proposition is defeated then no second election for the same purpose shall be held in one year thereafter."

Section 2. Notice of the election hereby ordered together with the amendment hereby proposed shall be given by proclamation of the Governor which shall be published in one newspaper in each county of the state once a week for four consecutive weeks next preceding the day hereby appointed for such election.

Section 3. At the election hereby ordered to be held as herein provided, the qualified electors shall vote on such proposed amendment, and on the official ballot provided for such election there shall be printed or partly printed and partly written the following: "Shall the following be adopted as an amendment to the Constitution of Alabama: "Each municipal corporation in this state whose annual ad valorem tax rate is otherwise limited by the Constitution or any amendment thereto to less than one per centum (1%) of the value of the property situated therein as assessed for state taxation during the preceding year shall have, in addition to the power to levy and collect such ad valorem tax each year at the rate authorized immediately prior to the adoption of this amendment, the further power to levy and collect each year an additional tax or taxes to such extent that the total ad valorem tax rate of such municipal corporation shall not exceed one per centum (1%) in any one year on the property situated therein based on the valuation of such property as assessed for state taxation during the preceding year; provided, that before any such additional tax may be

so levied and collected a majority of the qualified electors of any such municipal corporation voting at an election called for that purpose shall vote in favor of the levy thereof; provided further, that the total ad valorem tax or taxes to be levied and collected by any such municipal corporation shall not exceed one per centum (1%) in any one year; and provided further, that the adoption of this amendment shall in no wise affect, limit, modify, abridge or impair the power, authority or right of any such municipal corporation to levy and collect the special school taxes now or hereafter vested or conferred upon them, or any of them, under the Constitution or any amendment thereto, which said special school taxes shall be in excess of said one per centum (1%) herein provided for. Each election held under the provisions hereof shall be ordered, held, canvassed and may be contested in the same manner as is or may be provided by the law applicable to municipal corporations for elections to authorize the issuance of municipal bonds. The ballots used at such election shall specify the purpose for which the proposed additional rate of taxation shall be authorized and shall contain the words 'For _____% additional rate of taxation'; and 'Against _____% additional rate of taxation'; the additional rate of taxation proposed to be shown in the blank space provided therefor. The voter shall record his choice, whether for or against the additional rate shown, by placing a cross mark before or after the words expressing his choice. The proceeds of any such additional tax so authorized at any such election shall be used only for the purpose for which the same shall be authorized at such election. Elections to authorize the levy of such additional tax may be held as often as ordered by the governing body of the municipality, but when a proposition is submitted to the electors to levy such additional tax for a specific purpose and such proposition is defeated then no second election for the same purpose shall be held in one year thereafter. "Yes..... No....."

Section 4. The officers to hold the said election shall be the same officers who are appointed to conduct and who shall conduct the general election held on the date on which said amendment is to be voted on, and the election with respect to said amendment shall be conducted in all respects as provided by law for general elections held in the State of Alabama.

Section 5. The vote cast in such election shall be canvassed, tabulated, and returns thereof be made to the Secretary of State and counted in the same manner as in elections for representatives to the Legislature, and if it shall thereupon appear that a majority of the qualified electors who voted in such election upon the proposed constitutional amendment voted in favor of the same, such amendment shall be valid to all intents and purposes as a part of the con-

stitution of the State of Alabama. The result of such election shall be known by a proclamation of the Governor.

Passed by the House of Representatives August 22, 1939.

Passed by the Senate September 15, 1939.

No. 564)

(H. 744—Megginson-McCall

AN ACT

To amend Section 4, 6, 8, 18 and 19 of an Act entitled "An Act to amend an Act entitled 'An Act for the protection of salt water shrimp to provide the manner in which said crustaceans may be caught, taken and marketed, to fix the season during which they may be caught, to authorize the issuance of licenses to persons seining for salt water shrimp to provide a tax on all salt water shrimp taken in the waters within the State of Alabama, and to provide penalties for the violation of the provisions of this Act'. 'Approved September 2, 1919.'" approved July 6, 1931.

Be it Enacted by the Legislature of Alabama:

Section 1. That Sections 4, 6, 8, 18 and 19 of an Act entitled "An Act to amend and Act entitled 'An Act for the protection of salt water shrimp to provide the manner in which said crustaceans may be caught, taken and marketed, to fix the season during which they may be caught, to authorize the issuance of licenses to persons seining for salt water shrimp; to provide a tax on all salt water shrimp taken in the waters within the State of Alabama, and to provide penalties for the violation of the provisions of this Act'. 'Approved September 2, 1919.'" approved July 6, 1931 be and the same is hereby amended to read respectively as follows: Section 4. That it shall be unlawful for any person, firm or corporation to catch or attempt to catch any salt water shrimp by the use of any trawl, seine or other device, except castnets, unless an annual license fee due and payable on or before the opening date of the season as set by the Director of Conservation in each and every year at the rate herein provided be paid, and the annual license shall be at all times in the possession of the party or parties operating same for the purpose of taking salt water shrimp, such licenses to be issued by the Department of Conservation and the proceeds thereof to be placed to the credit of the Conservation fund. The following license tax shall be paid by persons operating seines or trawls for the purpose of taking or catching salt water shrimp, to-wit: On all seines or trawls up to thirty feet \$7.50, from thirty to three hundred feet \$15.00, and from three hundred feet to nine hundred feet \$22.50, and over nine hundred feet \$37.50. Section 6. That it shall be unlawful for any person to use any boat for the purpose of drawing a seine or trawl, used in catching shrimp, or hauling or carrying shrimp, without first having secured an annual

license due and payable on or before the opening date of the season as set by the Director of Conservation in each and every year as follows: For each and every boat owned by a resident of this State, up to five ton capacity, there shall be an annual license fee of \$7.50; for every boat from five to fifteen ton capacity, there shall be an annual license fee of \$22.50; and all boats over fifteen ton capacity, there shall be an annual license fee of \$37.50; that all boats owned by non-resident of this State, use for the purpose of catching or hauling of shrimp within the State shall secure an annual license due and payable on or before the open date of the season as set by the Director of Conservation in each and every year as follows: for each and every boat up to five tons capacity there shall be an annual license paid of \$15.00; for every boat, owned by non-residents, used for the purpose of taking or hauling shrimp within the State, or from five to fifteen ton capacity, there shall be paid an annual license fee of \$30.00; and for every boat used by non-residents of this State for the purpose of taking or hauling shrimp withing the State, of over fifteen ton capacity, there shall be paid an annual license fee of \$50.00. Said licenses shall be placed to the credit of the Conservation fund. Section 8. That it shall be unlawful to catch or market salt water shrimp for commercial purposes, that is for canning, drying or shipping within the State, unless a tax of twelve cents per barrel be paid by the person, firm or corporation catching the same for the purpose of canning, drying or shipping, or purchasing the same from independent shrimp fishermen for the purpose of canning, drying or shipping and said tax to be paid at the office of the Chief Enforcement Officer not later than the 5th day of each month. Section 18. That the catchers of shrimp shall make weekly reports in writing to the Department of Conservation of the number of barrels of shrimp caught, the person, firm or corporation or boat to whom shrimp were sold; and any purchaser buying shrimp for resale, or dealer, or wholesaler or factory purchasing said shrimp from any source whatsoever shall make monthly reports in writing to the Department of Conservation of the number of barrels of shrimp purchased, the names of the party or parties from whom purchased, and the date of purchase. It shall be unlawful for the catchers of shrimp to fail to make the weekly reports herein provided for and shall be unlawful for any purchaser buying shrimp for resale, or dealer, or wholesaler or factory, within the State, to fail or refuse to make such reports, or for any such purchaser buying shrimp for resale, or dealer, or wholesaler or factory to aid or abet another in any attempt to evade the making of such reports. It shall also be unlawful for the catchers, after notice thereof from the Department of Conservation, to sell or deliver any shrimp to such purchasers buying shrimp for resale or to dealers, or wholesalers, or factories

or boats furnishing shrimp to the same, or for any factory to catch any shrimp for use in such factory, within the State, until notified by said Department that such purchaser buying shrimp for resale, or dealer, or wholesaler, or factory has complied with the requirements of this section. Any catcher, purchaser buying shrimp for resale, or dealer, or wholesaler or factory violating the provisions of the Section shall be guilty of a misdemeanor, and, upon conviction, shall be punished by a fine of not less than Twenty-five Dollars (\$25.00) and not more than One Hundred Dollars (\$100.00) for each offense. Section 19. That it shall be unlawful to catch or attempt to catch any salt water shrimp north of a line commencing at Arlington Docks, Mobile County, Alabama, and running in an eastwardly direction to the town of Daphne in Baldwin County.

Section 2. All laws or parts of laws, general special or local, in conflict herewith are hereby specifically repealed.

Section 3. This Act shall go into effect immediately upon its passage and approval of the Governor.

Approved September 21, 1939.

No. 565)

(H. 745—Megginson-McCall

AN ACT

To amend Sections 17, 28, 31, 39 and 41 of an Act entitled "An Act to further conserve, protect and develop oysters on the bottoms within the boundaries of the State of Alabama, to prohibit dredging except under regulation of the Alabama Oyster Commission, to regulate the size of container used in measuring a barrel of oysters, to fix a uniform tax on oysters, to provide for license for dredging oysters and method for collecting tax on oysters harvested and disposition of same, to authorize the Alabama Oyster Commission to open and close reefs and planted oyster bottom when in their opinion necessity requires it; to require and provide for licenses for persons, firms, corporations or associations to engage in the business of packing, canning, processing or dealing in oysters or transporting oysters; to require and provide licenses for brokers, dealers, commission men, hucksters or other persons, firms, corporations or associations who wholesale or retail oysters; to authorize the Alabama Oyster Commission to regulate the time, manner and means for shipping or transporting oysters and shrimp beyond the boundaries of the State of Alabama; to regulate the time, manner and means for planting oysters or oyster shells; to further provide for the duties of oyster inspectors and other employees of the Alabama Oyster Commission; by regulation to protect oyster bottom lessees in their rights as such lessees; to make it unlawful to resist arrest for violation of the provisions of this Act or any regulation based thereunder or to refuse any inspection of premises where oysters or other seafoods are kept or stored or to conspire or agree with any person, firm, corporation or association to evade any of the provisions of this Act or regulations based thereunder or any laws heretofore or hereafter enacted or the regulations based thereunder; to make it unlawful to remove or destroy any buoy, stake or other marker authorized to be set or placed by the Alabama Oyster Commission; to

make it unlawful to take, catch or attempt to take or catch oysters or shrimp by the use of any unlicensed boat; to make it unlawful for any person, firm, corporation or association to buy or sell oysters or shrimp taken by means of an unlicensed boat or unlicensed tonger or unlicensed dredge; to provide for minimum size of oyster or shrimp which may be taken, bought or sold for commercial purposes; to provide license for trucks or other motor-driven vehicles used in transporting oysters for commercial purposes; to provide for keeping records of all oysters or shrimp transported to market and provide for inspection of such record; to provide that before shrimp which have been taken or caught in waters of this State or from the waters within the territorial jurisdiction of the State may be carried or transported out of the State, same shall be brought to a port of entry designated by the Alabama Oyster Commission and then and there the tax provided by law shall be paid; to provide for a tax on shrimp which are carried out of the State; and to provide how same may be taken or transported beyond the boundaries of the State; to provide that a violation of any of the provision of this Act or regulations based thereunder shall be a misdemeanor; and to provide for penalties for violation of same; and to provide for the repeal of all laws in conflict with the provision of this Act, to determine what shall constitute seafoods; to vest title to all seafoods in the public waters of the State in the State of Alabama until title thereto has been legally divested; to give authority to the Oyster Commission to promulgate regulations relating to any and all seafoods which shall have the force and effect of law; to empower the Chief Enforcement Officer and the oyster inspectors to enforce all laws and regulations relating to the seafood industry; to require the captain of licensed boats to assist in making arrests for violation of laws and regulations relating to the seafood industry; to authorize the Oyster Commission to provide the necessary patrol boats and appoint deputy inspectors for such boats; to make it unlawful to catch, take or have oysters in possession at certain time of the year; to authorize the Commission to close the oyster season earlier than the first of May and open same later than the first of September when deemed necessary for the conservation and protection of oysters; to provide for proper culling of oysters; to provide for lessees of oyster bottoms to take uncultured oysters for planting purposes; to provide for the cultivation and development of oyster beds during the closed season; to provide restrictions for taking oysters from newly planted beds; to prohibit the taking or catching of oysters by any means between sunset and sunrise; to provide for licensing of all boats before beginning operation in the taking of oysters, shrimp or other seafoods; to authorize the Commission to have printed signs words and/or numbers and require same to be posted on licensed boats; to provide privilege taxes and require same to be paid by factories or other establishments before they pack, can or process oysters or shrimp and on raw oyster shippers; to authorize the Commission to make agreements with other States relating to the catching and/or transporting of oysters from or into the State of Alabama for planting for commercial purposes, approved March 1, 1937.

Be it Enacted by the Legislature of Alabama:

Section 1. That Sections 17, 28, 31, 39 and 41 of an Act entitled "An Act to further conserve, protect and develop oysters on the bottoms within the boundary of the State of Alabama, to prohibit dredging except under regulation of the Alabama Oyster Commission, to regulate the size of container used in measuring a barrel of oysters, to fix a uniform tax on oysters, to provide for license for

dredging oysters and method for collecting tax on oysters harvested and disposition of same, to authorize the Alabama Oyster Commission to open and close reefs and planted oyster bottoms when in their opinion necessity requires it; to require and provide for licenses for persons, firms, corporations and associations to engage in the business of packing, canning, processing or dealing in oysters or transporting oysters; to require and provide licenses for brokers, dealers, commission men, hucksters or other persons, firms, corporations or associations who wholesale or retail oysters; to authorize the Alabama Oyster Commission to regulate the time, manner and means for shipping or transporting oysters and shrimp beyond the boundaries of the State of Alabama; to regulate the time, manner and means for planting oysters or oyster shells; to further provide for the duties of oyster inspectors and other employees of the Alabama Oyster Commission; by regulation to protect oyster bottom lessees in their rights as such lessees; to make it unlawful to resist arrest for violation of the provisions of this Act or any regulation based thereunder or to refuse any inspection of premises where oysters or other seafoods are kept or stored or to conspire or agree with any person, firm, corporation or association to evade any of the provision of this Act or regulations based thereunder or any laws heretofore or hereafter enacted or the regulations based thereunder; to make it unlawful to remove or destroy any buoy, stake or other marker authorized to be set or placed by the Alabama Oyster Commission; to make it unlawful to take, catch or attempt to take or catch oysters or shrimp by the use of any unlicensed boat; to make it unlawful for any person, firm, corporation or association to buy or sell oysters or shrimp taken by means of an unlicensed boat or unlicensed tonger or unlicensed dredge; to provide for minimum size of oyster or shrimp which may be taken, bought or sold for commercial purposes; to provide license for trucks or other motor-driven vehicles used in transporting oysters for commercial purposes; to provide for keeping records of all oysters or shrimp transported to market and provide for inspection of such record; to provide that before shrimp which have been taken or caught in waters of this State or from the waters within the territorial jurisdiction of the State may be carried or transported out of the State, same shall be brought to a port of entry designated by the Alabama Oyster Commission and then and there the tax provided by law shall be paid; to provide for a tax on shrimp which are carried out of the State; and to provide how same may be taken or transported beyond the boundaries of the State; to provide that a violation of any of the provisions of this Act or regulations based thereunder shall be a misdemeanor; and to provide for penalties for violation of same; and to provide for the repeal of all laws in conflict with the provisions of this Act, to determine what shall constitute seafoods; to vest title to all

seafoods in the public waters of the State in the State of Alabama until title thereto has been legally divested; to give authority to the Oyster Commission to promulgate regulations relating to any and all seafoods which shall have the force and effect of law; to empower the Chief Enforcement Officer and the Oyster inspectors to enforce all laws and regulations relating to the seafood industry; to require the captain of licensed boats to assist in making arrests for violation of laws and regulations relating to the seafood industry; to authorize the Oyster Commission to provide the necessary patrol boats and appoint deputy inspectors for such boats; to make it unlawful to catch, take or have oysters in possession at certain times of the year; to authorize the Commission to close the oyster season earlier than the first of May and open same later than the first of September when deemed necessary for the conservation and protection of oysters; to provide for proper culling of oysters; to provide for lessees of oyster bottoms to take uncultured oysters for planting purposes; to provide for the cultivation and development of oyster beds during the closed season; to provide restrictions for taking oysters from newly planted beds; to prohibit the taking or catching of oysters by any means between sunset and sunrise; to provide for licensing of all boats before beginning operation in the taking of oysters, shrimp or other seafoods; to authorize the Commission to have printed signs, words and/or numbers and require same to be posted in licensed boats; to provide privilege taxes and require same to be paid by factories or other establishments before they pack, can or process oysters or shrimp and on raw oyster shippers; to authorize the Commission to make agreements with other States relating to the catching and/or transporting of oysters from or into the State of Alabama for planting for commercial purposes", approved March 1, 1937, be amended to read respectively as follows: Section 17. Each shipper of raw oysters or shrimp, or both shall pay a tax of fifteen (\$15.00) Dollars, and shall receive from the Department of Conservation a license therefor upon the payment of said sum to said Department of Conservation, and it shall be unlawful for any person to can or ship raw oysters without first having paid said tax and received said license. Section 28. Wherever in this Act two or more licenses on the same business or occupation are required, it is hereby declared to be the intention of the Legislature that all such licenses as are herein levied shall be collected without credit or offset. Licenses provided in this Act shall be posted in a conspicuous place at the place of the licensed business during the effectiveness of such license and licenses provided for in Section 26 of said Act shall be securely attached to the vehicle in which said oysters are carried, hauled or transported or be carried on or be in the possession of the licensee at the time he is driving such vehicle or transporting or hauling oysters for sale. Section 31. That the catchers of oysters

shall make weekly reports in writing to the Department of Conservation of the number of barrels of oysters caught, the person, firm or corporation or boat to whom such oysters were sold; and any purchaser buying oysters for resale, or dealer or wholesaler or factory purchasing said oysters from any source whatsoever shall make monthly reports in writing to the Department of Conservation of the number of barrels of oysters purchased, the names of the party or parties from whom purchased, and the date of purchase. It shall be unlawful for the catchers of oysters to fail to make the weekly reports herein provided for and shall be unlawful for any purchaser buying oysters for resale, or dealer or wholesaler or factory, within the State, to fail or refuse to make such reports, or for any such purchaser buying oysters for resale, or dealer or wholesaler or factory to aid or abet another in any attempt to evade the making of such reports. It shall also be unlawful for the catchers, after notice thereof from the Department of Conservation, to sell or deliver any oysters to such purchasers buying oysters for resale, or to dealers or wholesalers, or factories or boats furnishing oysters to the same, or for any factory to catch any oysters for use in such factory, within the State, until notified by said Department that such purchaser buying oysters for resale, or dealer or wholesaler, or factory has complied with the requirements of this section. Any catcher, purchaser buying oysters for resale, or dealer or wholesaler, or factory violating the provisions of this section shall be guilty of a misdemeanor, and, upon conviction, shall be punished by a fine of not less than Twenty-five Dollars (\$25.00) and not more than One Hundred Dollars (\$100.00) for each offense. The Department of Conservation or its duly authorized agent or agents shall have authority to board any boat, barge or other water craft which is engaged in the taking or catching of oysters or shrimp or to enter the place of business of any person, firm, corporation or association engaged in the seafood industry and in inspection or investigation determine whether such boat, barge or other craft or such business is in every respect being operated in full compliance with the provisions of the seafood laws of this State or regulations based thereunder, and/or whether oysters and/or shrimp or other seafoods are being taken, or canned or packed or processed or caught or transported in full compliance with the laws relating to oysters and shrimp or other seafoods or regulations based thereunder. Section 39. It shall be unlawful for any person, firm, corporation or association to sell or offer for sale for commercial purposes any shrimp where it requires more than forty with heads to weigh one pound, or where it requires more than sixty-eight headless shrimp to weigh one pound. Section 41. A tax of twelve cents a barrel shall be paid at the office of the Chief Enforcement Officer not later than the 5th day of each month on all shrimp taken or caught in the waters of Alabama or waters

within the territorial jurisdiction of the State of Alabama which are not to be carried or transported beyond the boundary of the State.

Section 2. All laws or parts of laws, general, special or local, in conflict with this Act is hereby repealed.

Section 3. This Act shall go into effect immediately upon its passage and approval by the Governor.

Approved September 22, 1939.

No. 566)

(H. 849—Thomas

AN ACT

To submit to the qualified electors of the State of Alabama at the next general election after the expiration of three months from and after the final adjournment of the present session of the Legislature, for their consideration, an amendment to the Constitution of the State of Alabama, fixing the salaries to be paid to the Judge of Probate, Tax Assessor, Tax Collector, Sheriff, Circuit Clerk, Register in Chancery, and members of the county governing body of Dallas County, Alabama, but subject to the provisions of Section 281 of the Constitution of Alabama; to require the said officers to collect all charges of court, fees, commissions, allowances, percentages, salaries or other compensation provided by law, other than the salaries herein fixed, and to cover the same into the county treasury of Dallas County, Alabama; to authorize and require the payment of the salaries of the above named officers in monthly installments out of the county treasury of Dallas County, Alabama; to make provision for the employment and the payment of the compensation of the employees in said offices; to authorize and empower the Legislature of Alabama, from time to time, by general or local laws, to fix, regulate and alter the employment and compensation of the employees in said offices, including the number and the method and basis of their compensation; and to authorize and empower the Legislature of Alabama hereafter, from time to time, but subject to the provisions of Section 281 of the Constitution of Alabama, by general or local laws, to fix, regulate and alter the charges of court, fees, commissions, allowances, percentages, salaries, or other compensation received by any officer of Dallas County, Alabama, other than the Judge of Probate, Tax Assessor, Tax Collector, Sheriff, Circuit Clerk and Register in Chancery, including the method and basis of their compensation.

Be it Enacted by the Legislature of Alabama:

Section 1. That the following amendment to the Constitution of Alabama is hereby proposed, and an election is hereby ordered, by the qualified electors of the State of Alabama upon the proposed amendment and the day hereby appointed for the said election is the next general election held after the expiration of three months from and after the final adjournment of the present session of the Legislature. The proposed amendment is as follows: "The salaries of the following named county officers of Dallas County, Alabama, but subject to the provisions of Section 281 of the Constitution of

Alabama, are fixed as follows: Judge of Probate, \$6,000.00 per annum net; Tax Assessor, \$5,000.00 per annum net; Tax Collector, \$5,000.00 per annum net; Sheriff, \$4,800.00 per annum net; Circuit Clerk, \$2,400.00 per annum net; Register in Chancery, \$1,200.00 per annum net; provided, that if the same person holds the offices of Circuit Clerk and Register in Chancery, the salary for both offices shall be \$3,000.00 per annum net; members of the county governing body, exclusive of the Judge of Probate, \$600.00 each per annum net. The above named officers are hereby required to collect all charges of court, fees, commissions, allowances, percentages, salaries or other compensation provided by law, other than the salaries herein fixed, and to cover the same into the county treasury. This shall include the allowances or amounts received by the Sheriff for feeding prisoners from both the State and Federal Government, and the county governing body of Dallas County, Alabama, shall pay the expenses incurred in feeding such prisoners out of the county treasury, but nothing herein shall be construed as interfering with the allowances or amounts provided by law for guards at the county jail or bailiffs for courts, or preventing the county governing body of Dallas County, Alabama, from making such allowances to the Sheriff and his deputies for transportation on official business, including the purchase of automobiles for such use, as it may deem necessary from time to time. The salaries of the above named county officers of Dallas County, Alabama, shall be paid out of the county treasury in equal monthly installments. "The employees of said offices shall be selected by the respective officers, and allowances for their compensation shall be as follows: 1. Office of Judge of Probate—\$6,500 per annum. 2. Office of Tax Assessor—\$3,600.00 per annum. 3. Office of Tax Collector—\$2,600.00 per annum. 4. Office of Sheriff—\$4,500.00 per annum. 5. Office of Circuit Clerk—\$1,350.00 per annum. 6. Office of Register in Chancery—None. "The county governing body shall have the same authority in regard to the employment of persons for the county, and the fixing of their compensation, other than the employees in the above named offices, as provided by law. The salaries of the employees in the above enumerated offices shall be paid out of the county treasury in equal monthly installments; provided, however, that no payment of compensation for any such employee shall be made until the employee has actually rendered the service for which the payment is to be made. "The Legislature of Alabama is hereby authorized and empowered, from time to time, by general or local laws, to fix, regulate and alter the employment and compensation of the employees in said offices, including the number and the method and basis of their compensation. "The Legislature of Alabama is hereby authorized and empowered, from time to time, by general or local laws, but subject to the provisions

of Section 281 of the Constitution of Alabama, to fix, regulate and alter the charges of court, fees, commissions, allowances, percentages, salaries or other compensation received by any officer of Dallas County, Alabama, other than the Judge of Probate, Tax Assessor, Tax Collector, Sheriff, Circuit Clerk and Register in Chancery, including the method and basis of their compensation."

Section 2. Notice of the election hereby ordered, together with the amendment hereby proposed shall be given by proclamation of the Governor, which shall be published in one newspaper once a week in every county in the State for at least four successive weeks, next preceding the day hereby appointed for such election.

Section 3. At the election hereby ordered to be held as herein provided, the qualified electors shall vote on such proposed amendment; and on the official ballot provided for such election, there shall be printed the following: "Shall the following be adopted as an amendment to the Constitution of Alabama? "The salaries of the following named county officers of Dallas County, Alabama, but subject to the provisions of Section 281 of the Constitution of Alabama, are fixed as follows: Judge of Probate, \$6,000.00 per annum net; Tax Assessor, \$5,000.00 per annum net; Tax Collector, \$5,000.00 per annum net; Sheriff, \$4,800.00 per annum net; Circuit Clerk, \$2,400.00 per annum net; Register in Chancery, \$1,200.00 per annum net; provided, that if the same person holds the offices of Circuit Clerk and Register in Chancery, the salary for both offices shall be \$3,000.00 per annum net; members of the county governing body, exclusive of the Judge of Probate, \$600.00 each per annum net. The above named officers are hereby required to collect all charges of court, fees, commissions, allowances, percentages, salaries or other compensation provided by law, other than the salaries herein fixed, and to cover the same into the county treasury. This shall include the allowances or amounts received by the Sheriff for feeding prisoners from both the State and Federal Government, and the county governing body of Dallas County, Alabama, shall pay the expenses incurred in feeding such prisoners out of the county treasury, but nothing herein shall be construed as interfering with the allowances or amounts provided by law for guards at the county jail or bailiffs for courts, or preventing the county governing body of Dallas County, Alabama, from making such allowances to the Sheriff and his deputies for transportation on official business, including the purchase of automobiles for such use, as it may deem necessary from time to time. The salaries of the above named county officers of Dallas County, Alabama, shall be paid out of the county treasury in equal monthly installments. "The employees of said offices shall be selected by the respective officers, and allowances for their compensation shall be as follows: "1. Office of Judge of Probate—\$6,500 per annum. 2. Office of Tax Assessor—

\$3,600.00 per annum. 3. Office of Tax Collector—\$2,600.00 per annum. 4. Office of Sheriff—\$4,500.00 per annum. 5. Office of Circuit Clerk—\$1,350.00 per annum. 6. Office of Register in Chancery—None. "The county governing body shall have the same authority in regard to the employment of persons for the county, and the fixing of their compensation, other than the employees in the above named offices, as provided by law. The salaries of the employees in the above enumerated offices shall be paid out of the county treasury in equal monthly installments; provided, however, that no payment of compensation for any such employee shall be made until the employee has actually rendered the service for which the payment is to be made. "The Legislature of Alabama is hereby authorized and empowered, from time to time, by general or local laws, to fix, regulate and alter the employment and compensation of the employees in said offices, including the number and the method and basis of their compensation. "The Legislature of Alabama is hereby authorized and empowered, from time to time, by general or local laws, but subject to the provisions of Section 281 of the Constitution of Alabama, to fix, regulate and alter the charges of court, fees, commissions, allowances, percentages, salaries or other compensation received by any officer of Dallas County, Alabama, other than the Judge of Probate, Tax Assessor, Tax Collector, Sheriff, Circuit Clerk and Register in Chancery, including the method and basis of their compensation. "Yes (.....) No (.....)"

Section 4. The officials for such election shall be appointed and such election shall be held in all things in accordance with the laws governing general elections.

Section 5. The votes cast at such election shall be canvassed, tabulated, and returns thereof shall be made to the Secretary of State, and counted in the same manner as in elections for Representatives in the Legislature; and, if it shall appear that a majority of the qualified electors who voted at such election upon the proposed amendment voted in favor of the same, such amendment shall be valid to all intents and purposes as a part of the Constitution of the State of Alabama. The result of such election shall be made known by a proclamation of the Governor.

Passed the Senate September 12, 1939.

Concurred in and passed by the House of Representatives September 15, 1939.

No. 567)

(H. 954—Dominick

AN ACT

To regulate the expenditure of any funds appropriated from the State Treasury for the purpose of furnishing free text books in the public elementary schools of the State and to provide that the State Board of Education

shall make regulations for the proper care of said text books, and to provide for the matching of Federal Funds available for public rural library service.

Be it Enacted by the Legislature of Alabama:

Section 1. That any funds appropriated for the purpose of furnishing free textbooks in the public elementary schools of the State shall be expended first for the purpose of furnishing free adopted textbooks to the pupils in the public schools in the first, second, and third grades, and the remainder of said funds so appropriated, if any, may be used for purchasing and furnishing free adopted textbooks to pupils enrolled in the other elementary grades of the public schools. Provided, however, that the State Board of Education is hereby required to use not more than Ten Thousand Dollars (\$10,000.00) of the remainder of any funds appropriated for furnishing free textbooks in the public elementary schools of the State, after such text books have been furnished to the pupils in the public schools in the first, second, and third grades, for matching Federal funds that hereafter may be made available to the State of Alabama for the Public Library Service Division in the State Department of Archives and History.

Section 2. That the State Board of Education shall make regulations for the proper care of said free text books.

Section 3. That all laws and parts of laws in conflict with the provisions of this act be and the same are hereby repealed.

Section 4. This act shall become effective immediately upon approval of the Governor.

Approved September 19, 1939.

No. 569)

(H. J. R. 130—Dominick

HOUSE JOINT RESOLUTION

BE IT RESOLVED by the House, the Senate concurring, that Senate Bill Number 468 be known and designated as the Simpson-Brown (of Covington) Bill.

Approved September 19, 1939.

No. 570)

(S. 71—Shaver

AN ACT

To provide that bonds and other obligations issued by any public housing authority or agency in the United States, when secured by a pledge of annual contributions to be paid by the United States Government, shall be security for all public deposits, and legal investments for the State and public officers, municipal corporations, political subdivisions other

than county and public bodies, all banks, bankers, trust companies, savings banks and institutions, building and loan associations, savings and loan associations, investment companies and other persons carrying on a banking business, all insurance companies, insurance associations and other persons carrying on an insurance business, and all executors, administrators, guardians, trustees and other fiduciaries.

Be it Enacted by the Legislature of Alabama:

Section 1. That notwithstanding any restrictions on investments contained in any laws of this State, the State and all public officers, municipal corporations, political subdivisions, other than county and public bodies, all banks, bankers, trust companies, savings banks and institutions, building and loan associations, savings and loan associations, investment companies, and other persons carrying on a banking business, all insurance companies, insurance associations and other persons carrying on an insurance business and all executors, administrators, guardians, trustees and other fiduciaries may legally invest any sinking funds, moneys or other funds belonging to them or within their control in any bonds or other obligations issued by a housing authority pursuant to the Housing Authority Law (An Act approved February 8, 1935, as amended by an Act approved September 13, 1935 and any amendments thereto) or issued by any public housing authority or agency in the United States, when such bonds or other obligations are secured by a pledge of annual contributions to be paid by the United States Government or any agency thereof, and the amount of such actual contribution contracted to be paid shall be sufficient to assure the payment by such Public Housing Authority or agency, of both principal and interest on such bonds as the same shall mature and such bonds and other obligations shall be authorized security for all public deposits; it being the purpose of this Act to authorize any persons, firms, corporations, associations, political subdivisions, bodies and officers, public or private, to use any funds owned or controlled by them, including (but not limited to) sinking, insurance, investment, retirement, compensation, pension and trust funds, held on deposit, for the purchase of any such bonds and funds or other obligations; provided, however, that nothing contained in this Act shall be construed as relieving any person, firm, or corporation from any duty of exercising reasonable care in selecting securities.

Section 2. That, notwithstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that if any provision of this Act, or the application thereof to any person or circumstances, is held invalid, the remainder of the Act and the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

Section 3. That insofar as the provisions of this Act are inconsistent with the provisions of any other law, the provisions of this Act shall be controlling.

Section 4. That this Act shall be effective immediately upon its passage and approval.

Approved September 19, 1939.

No. 572)

AN ACT

H. 437—Smyer

Concerning the ascertainment of principal and income and the apportionment of Receipts and Expenses among Tenants and Remaindermen, and to make uniform the Law with Reference Thereto.

Be it Enacted by the Legislature of Alabama:

Section 1. (Definition of Terms). "Principal" as used in this act means any realty or personalty which has been so set aside or limited by the owner thereof or a person thereto legally empowered that it and any substitutions for it are eventually to be conveyed, delivered or paid to a person, while the return therefrom or use thereof or any part of such return or use is in the meantime to be taken or received by or held for accumulation for the same or another person; "Income" as used in this act means the return derived from principal; "Tenant" as used in this act means the person to whom income is presently or currently payable, or for whom it is accumulated or who is entitled to the beneficial use of the principal presently and for a time prior to its distribution; "Remainderman" as used in this act means the person ultimately entitled to the principal, whether named or designated by the terms of the transaction by which the principal was established or determined by operation of law; "Trustee" as used in this act includes the original trustee of any trust to which the principal may be subject and also any succeeding or added trustee.

Section 2. (Application of the Act—Powers of Settlor.) This act shall govern the ascertainment of income and principal, and the apportionment of receipts and expenses between tenants and remaindermen, in all cases where a principal has been established with or, unless otherwise stated hereinafter, without the interposition of a trust; except that in the establishment of the principal, provision may be made touching all matters covered by this act, and the person establishing the principal may himself direct the manner of ascertainment of income and principal and the apportionment of receipts and expenses or grant discretion to the trustee or other person to do so, and such provision and direction, where not otherwise contrary to law, shall control notwithstanding this act.

Section 3. (Income and Principal—Disposition.) (1) All receipts of money or other property paid or delivered as rent of realty or hire of personalty or dividends on corporate shares payable other than in shares of the corporation itself, or interest on money loaned, or interest on or the rental or use value of property wrongfully withheld or tortiously damaged, or otherwise in return for the use of principal, shall be deemed income unless otherwise expressly provided in this act. (2) All receipts of money or other property paid or delivered as the consideration for the sale or other transfer, not a leasing or letting, of property forming a part of the principal, or as a repayment of loans, or as compensation for property tortiously damaged, or in liquidation of the assets of a corporation, or as the proceeds of property taken on eminent domain proceedings where separate awards to tenant and remainderman are not made, or as proceeds of insurance upon property forming a part of the principal except where such insurance has been issued for the benefit of either tenant or remainderman alone, or otherwise as a refund or replacement or change in form of principal, shall be deemed principal unless otherwise expressly provided in this act. Any profit or loss resulting upon any change in form of principal shall enure to or fall upon principal. (3) All income after payment of expenses and reserves properly chargeable to it shall be paid and delivered to the tenant or retained by him if already in his possession or held for accumulation where legally so directed by the terms of the transaction by which the principal was established; while the principal shall be held for ultimate distribution as determined by the terms of the transaction by which it was established or by law.

Section 4. (Apportionment of Income.) Whenever a tenant shall have the right to income from periodic payments, which shall include rent, interest on loans, and annuities, but shall not include dividends on corporate shares, and such right shall cease and determine by death or in any other manner at a time other than the date when such periodic payments should be paid, he or his personal representative shall be entitled to that portion of any such income next paid which amounts to the same percentage thereof as the time elapsed from the last due date of such periodic payments on which payment was actually made to and including the day of the determination of his right is of the total period during which such income would normally accrue. The remaining income shall be paid to the person next entitled to income by the terms of the transaction by which the principal was established. But no action shall be brought by the tenant or his personal representative to recover such apportioned income or any portion thereof until after the day on which it would have become due to the tenant but for the determination of the right of the tenant entitled thereto. The pro-

visions of this section shall apply whether an ultimate remainderman is specifically named or not. Likewise when the right of the first tenant accrues at a time other than the payment dates of such periodic payments, he shall only receive that portion of such income which amounts to the same percentage thereof as the time during which he has been so entitled is of the total period during which such income would normally accrue; the balance shall be a part of the principal.

Section 5. (Corporate Dividends and Share Rights.) (1) All dividends on shares of a corporation forming a part of the principal which are payable in the shares of the corporation shall be deemed principal. Subject to the provisions of this section, all dividends payable otherwise than in the shares of the corporation itself, including ordinary and extraordinary dividends and dividends payable in shares or other securities or obligations of corporations other than the declaring corporation, shall be deemed income. Where the trustee shall have the option of receiving a dividend either in cash or in the shares of the declaring corporation, it shall be considered as a cash dividend and deemed income, irrespective of the choice made by the trustee. (2) All rights to subscribe to the shares or other securities or obligations of a corporation accruing on account of the ownership of shares or other securities in such corporation, and the proceeds of any sale of such rights, shall be deemed principal. All rights to subscribe to the shares or other securities or obligations of a corporation accruing on account of the ownership of shares or other securities in another corporation, and the proceeds of any sale of such rights, shall be deemed income. (3) Where the assets of a corporation are liquidated, amounts paid upon corporate shares as cash dividends declared before such liquidation occurred or as arrears of preferred or guaranteed dividends shall be deemed income; all other amounts paid upon corporate shares on disbursement of the corporate assets to the stockholders shall be deemed principal. All disbursements of corporate assets to the stockholders, whenever made, which are designated by the corporation as a return of capital or division of corporate property shall be deemed principal. (4) Where a corporation succeeds another by merger, consolidation or reorganization or otherwise acquires its assets, and the corporate shares of the succeeding corporation are issued to the shareholders of the original corporation in like proportion to, or in substitution for, their shares of the original corporation, the two corporations shall be considered a single corporation in applying the provisions of this section. But two corporations shall not be considered a single corporation under this section merely because one owns corporate shares of or otherwise controls or directs the other. (5) In applying this section the date when a dividend accrues to the person who is

entitled to it shall be held to be the date specified by the corporation as the one on which the stockholders entitled thereto are determined, or in default thereof the date of declaration of the dividend.

Section 6. (Premium and Discount Obligations.) Where any part of the principal consists of bonds or other obligations for the payment of money, and their inventory value, or in default thereof their market value at the time the principal was established, or their cost where purchased later, shall be less than their par or maturity value, they shall be deemed principal at such inventory, market or cost value and upon their respective maturities or upon their sale any loss or gain realized thereon shall fall upon or enure to the principal, except that where any such bonds or other obligations do not by their terms bear interest, then the difference between the inventory, market or cost value thereof and the amount realized therefor at maturity or upon sale, if greater, shall be deemed income. Similarly where at the time of the transaction by which the principal was established a part of the principal consists of such bonds or obligations and their inventory value or in default thereof their market value at such times shall be greater than their par or maturity value, they shall be deemed principal at such inventory or market value, and upon their respective maturities or upon their sale any loss or gain realized thereon shall fall upon or enure to the principal. Where, however, such bonds or other obligations are acquired subsequent to the time of the transaction by which the principal was established at a cost in excess of their par or maturity value, the premium paid therefor shall be amortized periodically out of income, and upon their respective maturities or upon their sale any loss or gain realized thereon as against the amortized principal value thereof shall fall upon or enure to the principal.

Section 7. (Principal Used in Business) (1) Whenever a trustee or a tenant is authorized by the terms of the transaction by which the principal was established, or by law, to use any part of the principal in the continuance of a business which the original owner of the property comprising the principal had been carrying on, the net profits of such business attributable to such principal shall be deemed income. (2) Where such business consists of buying and selling property, the net profits for any period shall be ascertained by deducting from the gross returns during and the inventory value of the property at the end of such period, the expenses during the inventory value of the property at the beginning of such period. (3) Where such business does not consist of buying and selling property, the net income shall be computed in accordance with the customary practice of such business, but not in such way as to decrease the principal. (4) Any increase in the value of the principal used in such business shall be deemed

principal, and all losses in any one calendar year after the income from such business for that year has been exhausted, shall fall upon principal.

Section 8. (Principal Comprising Animals.) Where any part of the principal consists of animals employed in business, the provisions of Section 7 shall apply; and in other cases where the animals are held as a part of the principal partly or wholly because of the offspring or increase which they are expected to produce, all offspring or increase shall be deemed principal to the extent necessary to maintain the original number of such animals and the remainder shall be deemed income; and in all other cases such offspring or increase shall be deemed income.

Section 9. (Disposition of Natural Resources) Where any part of the principal consists of an interest in lands, including royalties, overriding royalties, and working interests, from which may be taken minerals, oil, gas, timber, or other natural resources and the trustee or tenant is authorized by law or by the terms of the transaction by which the principal or trust was established to sell, lease, or otherwise develop such natural resources, and no provision is made for the disposition of the net proceeds thereof after the payment of expenses and carrying charges on such property, such proceeds, if received as rent on a lease or bonus for the execution of the same, shall be deemed income, but if received as consideration whether as royalties or otherwise, for the permanent severance of such natural resources from the lands, shall be apportioned to principal and income as follows: Such percentage thereof as is permitted to be deducted for depletion under the then existing laws of the United States for Federal income tax purposes shall be treated as principal and invested or held for the use and benefit of the remainderman, and the balance shall be treated as income subject to be disbursed to the tenant or persons entitled thereto, or if no provisions for such deduction for depletion is made by the then existing Federal laws, then 20% of the net proceeds thereof each year shall be treated as principal and invested or held for the benefit of the remainderman and the balance shall be treated as income and subject to be disbursed to the tenant or person entitled to receive such income. Such disposition of proceeds shall apply whether the property is producing or non-producing or developed or undeveloped for production at the time the trust or tenancy becomes effective.

Section 10. (Principal Subject to Depletion.) Where any part of the principal consists of property other than natural resources and subject to depletion, such as leaseholds, patents, copyrights, and royalty rights, and the trustee or tenant in possession is not under a duty to change the form of the investment of the principal, the full amount of rents, royalties, or return from the property

shall be income to the tenant; but where the trustee or tenant is under a duty arising either by law or by the terms of the transaction by which the principal was established, to change the form of the investment, either at once or as soon as it may be done without loss, then the return from such property not in excess of five per centum per annum of its fair inventory value or in default thereof its market value at the time the principal was established, or at its cost where purchased later, shall be deemed income and the remainder principal.

Section 11. (Unproductive Estate.) Upon conversion of any unproductive property, allocation between principal and income shall be as follows: (1) Where any part of a principal in the possession of a trustee consists of personalty, whether tangible or intangible property, which for more than a year and until disposed of as hereinafter stated has not produced an average net income, not considering depreciation or obsolescence, of at least one per centum per annum of its fair inventory value or in default thereof its market value at the time the principal was established or of its cost where purchased later, and the trustee is under a duty to change the form of the investment as soon as it may be done without sacrifice of value, and such change is delayed, but is made before the principal is finally distributed, then the tenant, or in case of his death his personal representative, shall be entitled to share in the net proceeds received from the property as delayed income to the extent hereinafter stated. Real estate acquired on foreclosure of a mortgage by the trustee shall be deemed personalty within the meaning of this provision. (2) Such income shall be that proportion of the net proceeds received from the property which (a) simple interest on its fair inventory value, or in default thereof its market value at the time the principal was established, or its cost where later purchased, calculated at the rate of four per centum per annum from the time when the change in the form of the investment was delayed to the time when the change is made, bears to (b) the total of such interest so calculated plus the fair inventory value of the property, or in default thereof its market value at the time the principal was established, or its cost where purchased later. The net proceeds shall consist of the gross proceeds received from the property less any expenses incurred in disposing of it and less all carrying charges which have been paid out of principal during the period while it has been unproductive. (3) The change shall be taken to have been delayed from the time when the duty to make it first arose, which shall be presumed, in the absence of evidence to the contrary, to be one year after the trustee first received the property if then unproductive, otherwise one year after it became unproductive. (4) If the tenant has received any income from the property or has had any beneficial use thereof during the period

while the change has been delayed his share of the delayed income shall be reduced by the amount of such income received or the value of the use had. (5) In case of successive tenants the delayed income shall be divided among them or their representatives according to the length of the period for which each was entitled to income. (6) Where the change shall take the form of an installment sale, each principal payment received by the trustee shall be allocated between principal and income upon the same basis which would have been applicable had payment of the purchase price been in cash all at one time.

Section 12. (Expenses—Trust Estates.) (1) All ordinary expenses incurred in connection with the trust estate or with its administration and management, including regularly recurring taxes assessed against any portion of the principal, water rates, premiums on insurance taken upon the estates of both tenant and remainderman, interest on mortgages on the principal, ordinary repairs, trustees' compensation except commissions directed to be paid out of principal, compensation of assistants, and court costs and attorneys' and other fees on regular accountings, shall be paid out of income. But such expenses where incurred in disposing of, or as carrying charges on, unproductive estate as defined in Section 11, shall be paid out of principal, subject to the provisions of Subsection (2) of Section 11. (2) All other expenses, including trustees' commissions directed to be paid out of principal, cost of investing or reinvesting principal, attorneys' fees and other costs incurred in maintaining or defending any action to protect the trust or the property or assure the title thereof, unless due to the fault or cause of the tenant, and costs of, or assessments for, improvements to property forming part of the principal, shall be paid out of principal. Any tax levied by any authority, federal, state or foreign, upon profit or gain defined as principal under the terms of Subsection (2) of Section 3 shall be paid out of principal, notwithstanding said tax may be denominated a tax upon income by the taxing authority. (3) Expenses paid out of income according to Subsection (1) which represent regularly recurring charges shall be considered to have accrued from day to day, and shall be apportioned on that basis whenever the right of the tenant begins or ends at some date other than the payment date of the expenses. Where the expenses to be paid out of income are of unusual amount, the trustee may distribute them throughout an entire year or part thereof, or throughout a series of years. After such distribution, where the right of the tenant ends during the period, the expenses shall be apportioned between tenant and remainderman on the basis of such distribution. (4) Where the costs of, or special taxes or assessments for, an improvement representing an addition of value to property held by the trustee as part of principal are paid out of

principal, as provided in Subsection (2), the trustee shall reserve out of income and add to the principal each year a sum equal to the cost of the improvement divided by the number of years of the reasonably expected duration of the improvement. (5) The trustee shall be authorized to set up out of income such reserve or reserves for depreciation, obsolescence, taxes, repairs, insurance, modernization or rehabilitation of property necessary to meet the requirements of prospective lessees, or for any other purpose, as may be consistent with the exercise of reasonable business prudence and as may be necessary or desirable to enable the trustee to protect principal and to carry out the powers vested in him, and shall be authorized to expend such reserve or reserves from time to time for the purposes for which the same shall have been set up as the trustee deems advisable. Such reserve or reserves shall be deemed expenses chargeable to income and shall not be distributed to the tenant. Such reserve or reserves shall be deemed principal as against any tenant whose interest shall terminate during the life of the trust.

Section 13. (Expenses—Non-Trust Estates.) (1) The provisions of Section 12, so far as applicable and excepting those dealing with costs of, or special taxes or governmental assessment for, improvements to property, shall govern the apportionment of expenses between tenants and remaindermen where no trust has been created, subject, however, to any legal agreement of the parties or any specific direction of the taxing or other statutes; but where either tenant or remainderman has incurred an expense for the benefit of his own estate and without the consent or agreement of the other, he shall pay such expense in full. (2) Subject to the exceptions stated in Subsection (1) the cost of, or special taxes or governmental assessments for, an improvement representing an addition of value to property forming a part of the principal shall be paid by the tenant, where such improvement cannot reasonably be expected to outlast the estate of the tenant. In all other cases a portion thereof only shall be paid by the tenant, while the remainder shall be paid by the remainderman. Such portion shall be ascertained by taking that percentage of the total which is found by dividing the present value of the tenant's estate by the present value of an estate of the same form as that of the tenant except that it is limited for a period corresponding to the reasonably expected duration of the improvement. The computation of present values of the estates shall be made on the expectancy basis set forth in the American Experience Tables of Mortality and no other evidence of duration or expectancy shall be considered.

Section 14. (Uniformity of Interpretation.) This act shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it.

Section 15. (Severability) If any provision of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect the other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of the act are declared to be severable.

Section 16. (Short Title.) This act may be cited as the Uniform Principal and Income Act.

Section 17. (Repeal.) All acts or parts of acts which are inconsistent with the provisions of this act are hereby repealed.

Section 18. (Time of Taking Effect.) This act shall take effect upon approval by the Governor and its terms shall apply (a) to all estates of tenants or remaindermen which become legally effective after that date, and (b) to all estates of tenants or remaindermen which are in effect as of that date, insofar as such terms do not impair the obligation of contract or deprive persons of property without due process of law under the constitution of the State of Alabama or of the United States of America.

Approved September 19, 1939

No. 573)

(H. 589—Snyder

AN ACT

To amend and reenact the act entitled "An Act to create in all cities of the State of Alabama, which have a population of as much as two hundred thousand people according to the last Federal Census, or which shall have such population according to any such census that may be taken hereafter, a board of trustees of the firemen's pension and relief fund in connection with the regularly organized and paid fire departments of such cities; to provide for the organization of such board of trustees; to designate certain members of said board and provide the method and time of electing the remaining members thereof; to designate and provide for the selection of officers and agents of said board; to prescribe the powers and duties of said board and its officers and agents; to continue as trustees the members of such board as now exist under existing laws during the terms for which they have been elected, same to be trustees under this act in their respective cities which are governed by this act and where this law applies; to create in all such cities a firemen's pension and relief fund for the benefit and relief of disabled, sick, retired and other members of such fire department and the widows, minor children and dependent widowed mothers of such disabled and retired members; and to continue benefits and relief under this law to such as are receiving same under existing laws in such cities as are governed by this law; to declare the said Board of Trustees the trustees of such fund, to provide for the use, management and control of such funds; to provide for the raising of such fund and the sources thereof; to provide for the payment into such funds of the fines prescribed and imposed for the violation of certain ordinances of such cities; to provide for the payment into such fund of a certain percentage of the gross premiums, less returned premiums, received by fire insurance companies doing business within such cities, and for the making of a sworn report by such fire insurance com-

panies of such premiums to the said board of trustees, and to prescribe the penalty for failure to make such payment and report, and for enforcing such penalty; to provide for sworn statement to be made to the Treasurer or Comptroller of such cities by all persons, firms or corporations which conduct a fire insurance agency or brokerage business within such cities, and to prescribe the penalty for failure to make and file such statements, and for enforcing such penalty; to provide for the payment into such fund dues to be collected from property owners who carry no fire insurance but who carry or set aside a reserve fund against loss or damage by fire or who carry insurance in or with fire insurance companies not authorized to do business in the State of Alabama, to provide for verified statements to be made by such property owners to the Commissioner of Insurance, to provide for the collection of such dues, and to prescribe the penalty for failure to make such payment and/or verified statement, and for enforcing such penalty; to provide for the payment into such fund of a portion of the monthly salary of each member of such fire department; to authorize, and empower such cities to pay into such fund a part of the revenue received from licenses issued by such cities; to transfer and convert into the respective Firemen's Pension and Relief funds as created and provided in this Act the respective funds and moneys and properties constituting Firemen's Pension and Relief funds as are existing respectfully under existing laws in Alabama in the cities which shall come under and be governed by the provisions of this Act; and to provide for the administration and use of same; to provide for the pensioning and relief of disabled, sick, retired and other members of such fire departments, and the widows, minor children and dependent widowed mothers of such disabled and retired members; to provide for the payment of One Hundred (\$100.00) Dollars out of such funds, upon the death of an active or retired member of such fire department, to the beneficiary of such deceased member; to provide for fixing the status of paid members of the fire department of any City, Town, Suburb, or Settlement which may be annexed or become a part of Cities which shall come under and be governed by the provisions of this Act, relative to the retention of such paid members, and the granting of pensions and relief privileges to them; to provide for the retirement and reinstatement of members of such fire department; to prescribe the duties of the City Attorney and City Physician in connection with the said Board of Trustees and the said fund; to provide for medical examination and diagnosis of the physical or mental condition of sick or disabled members of such fire department; to designate the treasurer of such fund and his duties; to provide for the repeal of all laws and parts of laws in conflict herewith; to provide for the exemption of benefits of said fund from levy; to provide the time of taking effect of this Act.", approved September 9, 1935.

Be it Enacted by the Legislature of Alabama:

Section One. That the act entitled "An Act to create in all cities of the State of Alabama, which have a population of as much as two hundred thousand people according to the Last Federal Census, or which shall have such population according to any such census that may be taken hereafter, a board of trustees of the firemen's pension and relief fund in connection with the regularly organized and paid fire departments of such cities; to provide for the organization of such board of trustees; to designate certain members of said board and provide the method and time of electing the remaining members thereof; to designate and provide for

the selection of officers and agents of said board; to prescribe the powers and duties of said board and its officers and agents; to continue as trustees the members of such board as now exist under existing laws during the terms for which they have been elected, same to be trustees under this act in their respective cities which are governed by this act and where this law applies; to create in all such cities a firemen's pension and relief fund for the benefit and relief of disabled, sick, retired and other members of such fire department and the widows, minor children and dependent widowed mothers of such disabled and retired members; and to continue benefits and relief under this law to such as are receiving same under existing laws in such cities as are governed by this law; to declare the said Board of Trustees the trustees of such fund, to provide for the use, management and control of such funds; to provide for the raising of such fund and the sources thereof; to provide for the payment into such funds of the fines prescribed and imposed for the violation of certain ordinances of such cities; to provide for the payment into such fund of a certain percentage of the gross premiums, less returned premiums, received by fire insurance companies doing business within such cities, and for the making of a sworn report by such fire insurance companies of such premiums to the said board of trustees, and to prescribe the penalty for failure to make such payment and report, and for enforcing such penalty; to provide for sworn statement to be made to the Treasurer or Comptroller of such cities by all persons, firms or corporation which conduct a fire insurance agency or brokerage business within such cities, and to prescribe the penalty for failure to make and file such statements, and for enforcing such penalty; to provide for the payment into such fund dues to be collected from property owners who carry no fire insurance but who carry or set aside a reserve fund against loss or damage by fire or who carry insurance in or with fire insurance companies not authorized to do business in the State of Alabama, to provide for verified statements to be made by such property owners to the Commissioner of Insurance, to provide for the collection of such dues, and to prescribe the penalty for failure to make such payment and/or verified statement, and for enforcing such penalty; to provide for the payment into such fund of a proportion of the monthly salary of each member of such fire department; to authorize, and empower such cities to pay into such fund a part of the revenue received from licenses issued by such cities; to transfer and convert into the respective Firemen's Pension and Relief funds as created and provided in this Act the respective funds and moneys and properties constituting Firemen's Pension and Relief funds as are existing respectfully under existing laws in Alabama in the cities which shall come under and be

governed by the provisions of this Act; and to provide for the administration and use of same; to provide for the pensioning and relief of disabled, sick, retired and other members of such fire departments, and the widows, minor children and dependent widowed mothers of such disabled and retired members; to provide for the payment of one hundred (\$100.00) dollars out of such funds, upon the death of an active or retired member of such fire department, to the beneficiary of such deceased member; to provide for fixing the status of paid members of the fire department of any City, Town, Suburb, or Settlement which may be annexed or become a part of cities which shall come under and be governed by the provisions of this Act, relative to the retention of such paid members, and the granting of pensions and relief privileges to them; to provide for the retirement and reinstatement of members of such fire department; to prescribe the duties of the City Attorney and City Physician in connection with the said Board of Trustees and the said fund; to provide for medical examination and diagnosis of the physical and mental condition of sick or disabled members of such fire department; to designate the treasurer of such fund and his duties; to provide for the repeal of all laws and parts of laws in conflict herewith; to provide for the exemption of benefits of said fund from levy; to provide the time of taking effect of this Act," approved September 9, 1935, be, and the same hereby is, amended and reenacted so as to read as follows: Section 1. That in all cities of the State of Alabama, which have a population of as much as two hundred thousand people according to the last Federal Census, or which shall have such population according to any such census that may be taken hereafter, there is hereby created in connection with the regularly organized and paid fire department of such cities a "board of trustees of the firemen's pension and relief fund," by which name the said board shall be known and called, to be composed as hereinafter provided and to be selected as hereinafter provided and directed; and in all such cities, there is hereby created a firemen's pension and relief fund, for the benefit of the persons hereinafter named, to be derived and raised in the manner hereinafter provided. Section 2. That the said Board of Trustees of the Firemen's Pension and Relief Fund shall be composed of three members, consisting of the president of the Board of Commissioners of such cities or other executive head thereof, and two other members, who shall be selected as hereinafter set forth and provided. Section 3. That in the event the Civil Service Board of such cities, as are governed by the provisions of this act, approves any applicant who is over the age of thirty years or any applicant who fails to pass such medical examination, as may be required by the said Civil Service Board, as a member of such fire department,

such applicant shall be ineligible to become a member of the pension and relief fund, as provided in this act, or to receive the benefits thereof. Be it further enacted, that in no event shall a pension be paid to an employee of such fire department, who, at the time of his employment, was over thirty years of age, nor to any employee who has failed to pass the medical examination required by the said Civil Service Board; provided, however, that the provisions of this section shall in no way apply to the present members of such fire department, nor shall the provisions of this section, apply, in any way, to any retired member of such fire department or other person who is on the pension list or roll of such fire department at the time of the passage of this act, provided, further, that when a member of such fire department is ineligible to participate in the benefits of said pension and relief fund, by reason of the provisions of this section, neither said member, nor his salary, shall be subject to an assessment for the benefit of said fund. Section 4. In the event any city, town, suburb or settlement, which has a fire department with paid members, is annexed to or becomes a part of such cities which are governed by the provisions of this act, such paid members shall, within thirty days of such event, be subject to a medical examination which shall be provided by said Board of Trustees of the Firemen's Pension and Relief Fund, and said Board of Trustees shall have the power and authority to determine and declare which of such paid members shall be eligible or ineligible to become a member of the pension and relief fund, as provided in this act, or receive the benefits thereof, and such determination or decision of said Board of Trustees shall be final and conclusive and shall not be subject to review, except by said Board of Trustees. The right to become a member of the pension and relief fund, or receive the benefits thereof, shall be effective as of the date such eligible paid member is retained or employed as a member of the fire department of such city as is governed by the provisions of this act. In no event shall such paid members who are over the age of thirty years, at the time of such medical examination, or who fail to pass such medical examination, be eligible to become a member of the pension and relief fund, as provided in this act, or to receive the benefits thereof; provided, however, that the provisions of this section shall in no way limit the power of the governing body of such cities which are under the provisions of this act from retaining as members of the fire department of such cities, such members who are over thirty years of age or who fail to pass the medical examination, as herein provided; provided, further, that when such member of such fire department is declared to be ineligible to participate in the benefits of the pension and relief fund, by reason of the provisions herein, neither said member, nor his salary, shall be

subject to an assessment for the benefit of said fund. Section 5. That in all cities governed and coming under the provisions of this act where there is now existing a Board of Trustees of the Firemen's Pension and Relief Fund as created and provided under an existing law of Alabama, the members of such board or boards shall compose the first Board of Trustees in their respective cities under this act and shall continue as such Trustees in their respective cities under the provisions of this act until their successors be elected and qualified, and shall hold and control all moneys, funds and properties of whatever kind and character there may be in or connected with such existing fund for distribution and handling and the uses as provided for herein, and shall administer such additional funds, moneys and property as may be created and come under their jurisdiction as provided for in this act in their respective cities. Section 6. The chief or other head fireman of such fire department of such respective cities shall not less than ten days before the first Tuesday of each third January after January, 1937, designate a day for holding a convention to nominate a trustee for election as such; and the time for holding such convention shall be fixed not less than five days before the time for holding such election. The delegates to such convention shall consist of one delegate from each fire company in such respective cities, who shall be elected by ballot by the members of such company at the time fixed by the chief or other head fireman of such fire department, in the call for such convention. The election of such delegates shall be certified by the captain or other officer in charge of such company, and if there be no officer in charge of such company, then by the oldest member thereof present at such convention. Such convention, when convened shall nominate as candidates five members of the fire department to be voted for as such trustee. And the names of the persons so nominated as candidates, shall, by the delegates to such convention, be reported in writing to their respective companies. The said election shall be held at the respective houses or quarters of the respective companies on the day named as aforesaid, between the hours of nine o'clock in the forenoon and six o'clock in the afternoon. Every member of such fire company shall be entitled to one ballot, and every ballot shall contain the names of the candidates so nominated, and each member of the department shall be entitled to vote by placing a cross mark opposite the name of his choice for trustee or trustees. The candidate receiving the highest number of votes for the position in which the term has expired shall hold office as such trustee for three years. The captain or other officer in command of such fire companies, respectively, or if there be no officer in charge thereof, then the oldest member thereof, on the day of and immediately after the

casting of such ballots, shall canvass and count the same, and certify in writing the number of ballots cast and the number of ballots received by each candidate for the office of trustee. After signing such certificate, such officer or other person shall enclose the same to the chief or other head of such fire department, together with all the ballots cast by said fire company, in an envelope, securely sealed and addressed; and the chief or other head of such fire department, as soon as all such certificates and ballots shall have been received by him, shall deliver the same to the president of the Board of Commissioners or other executive head of such respective cities, who shall, in the presence of the chief or other head of such fire department, open said envelope, examine said certificates, and ascertain and determine the total number of ballots cast at said election for each of the candidates as such trustee, and shall issue certificates of election as such trustee to the candidate receiving the highest number of votes as aforesaid. In case any two or more candidates shall have received the same number of votes, so that there would be no choice under the foregoing provision, then the president of the Board of Commissioners or other executive head of such respective cities shall forthwith determine by lot who shall be the trustee from the persons so receiving such equal number of votes. No election shall be set aside for want of formality in balloting by such members, or in certifying or transmitting returns of any such election by the officers or persons in charge thereof. The second of the three trustees of said Board of Trustees shall be elected by the Personnel Board of the county in which any such city may lie, or, if there be no such Personnel Board, by the governing body of such city. Such second trustee shall be elected upon the first Tuesday of each third January after January, 1937, for a three year term, and shall serve until his successor shall have been elected. Any vacancy in the position of such second trustee shall be filled by such Personnel Board, or in case there be none, by such governing body. Such second trustee shall be a person who, at the time of his election, shall have had not less than ten years experience in commercial or investment banking. The president of the Commission of such city, or other chief executive officer thereof, shall, ex officio, be the third trustee of said Board of Trustees and the chairman thereof. Section 7. That the regular election of the trustee to be elected by members of the fire department, and the regular election of the trustee to be elected by the Personnel Board or the governing body, shall be held on the first Tuesday of each third January after January, 1937, and at each such regular election a trustee shall be elected for a term of three years from the herein prescribed date of election. Should a vacancy occur in the position of the trustee elected by members of the fire department, such

vacancy shall at the first meeting of the Board of Trustees after the vacancy occurs be filled by the remaining members of the Board of Trustees, same to be thus filled until the next regular election of the trustee to be elected by members of the fire department. Section 8. At the first meeting after each election, the Board of Trustees shall elect a secretary, who may be chosen from their own number; provided, that if said Board of Trustees deem proper, the secretary, who shall be a member of such fire department, may be elected by the companies, under the provisions of this act relating to the election of trustees, to serve for a term of three years. Provided, however, in all cities where said members are subject to a Civil Service Law, the Personnel Director of said Personnel Board shall be the Secretary of said Board. It shall be the duty of the secretary to keep, in a book provided for that purpose, a full and complete record of all proceedings of the Board of Trustees, and he shall perform such other duties as may be properly assigned to him by the Board of Trustees. Section 9. The City treasurer or other custodian of the funds of such city is hereby made, and it shall be his duty to be, the custodian of all moneys belonging to the Firemen's Pension and Relief Fund, and all moneys belonging to such fund shall be promptly paid to him. The said treasurer shall also be the custodian of all securities and things of value belonging to such fund. He shall be liable on his official bond for the faithful performance of the duties imposed upon him under this act, and for the faithful accounting for all moneys, securities, and things of value which may come into his hands as such treasurer of such fund, and he shall keep a separate account thereof, which shall at all times show the true condition of such fund. Upon the expiration of his term of office, such treasurer shall surrender and deliver up to his successor all bonds, securities, and all unexpended moneys or other properties which may have come into his hands as treasurer of such fund. Section 10. That the said Board of Trustees of the Firemen's Pension and Relief Fund is hereby declared to be the trustee of said Firemen's Pension and Relief Fund, and shall have the exclusive management and control thereof, and all matters legitimately connected therewith; and said Board of Trustees shall have power to adopt and enforce such rules and regulations as may be necessary to enable it to effectively and properly carry into execution the purpose for which it was organized, and enable it to properly manage and conduct the business and affairs entrusted to it, provided such rules and regulations shall in no wise contravene the provisions of this act, but shall be in conformity thereto. The said Board of Trustees shall hear and decide all applications for pensions or relief under this act and its decision on such applications shall be final and conclusive, and not subject to review or reversal,

except by the said Board. The said Board of Trustees shall cause to be kept a record of all its meetings and proceedings. Section 11. That the said Firemen's Pension and Relief Fund shall consist of the following, namely: A. Of all moneys that may be given or donated to said fund by any person, firm, association or corporation for the uses and purposes for which said fund is created; and said board may take by gift, grant, devise or bequest any money, personal property, real estate or any interest therein or any right of property for the benefit of said fund; and such gift, grant, devise, or bequest, may be absolute or in fee simple or upon condition that only the rents, income and profits arising therefrom shall be applied to the purposes for which said fund is created; and also of existing funds as provided in Section 12 hereof. B. That there shall be deducted from the salary of each member of such fire department as the same becomes payable an amount equal to six per centum thereof, and the amount so deducted shall be placed by the treasurer or comptroller of such city to the credit of the said Firemen's Pension and Relief Fund. C. That each fire insurance company, whether a mutual company or otherwise, qualified to do business under the laws of Alabama, and doing business in such city, shall annually and on or before the first day of March of each year hereafter, pay into said Firemen's Pension and Relief Fund, a sum equal to one and one-half per centum of the gross premiums, less returned premiums, received by such fire insurance company for and on account of business, including all renewals of fire insurance, done by it in such city, during the preceding year; and it shall not be lawful for such fire insurance company or its agent, to take or receive any premium for insurance against fire within such city, unless such fire insurance company shall pay, at the time aforesaid, to the said Firemen's Pension and Relief Fund, the amount herein provided to be paid by such fire insurance company; and any such fire insurance company violating the provisions of this act shall forfeit to the said Firemen's Pension and Relief Fund the sum of one thousand dollars, to be recovered against such fire insurance company so violating said provisions, or its agent, by suit brought in the name of the said Board of Trustees of the Firemen's Pension and Relief Fund; that each person, firm or corporation, which conducts a fire insurance agency or brokerage business in such city, shall annually, and on or before the first day of each year, make and file a sworn statement in writing, with the treasurer or comptroller of such city, as treasurer of such fund, giving the name and address of each fire insurance company which such person, firm or corporation represented or did business for, as agent or broker, during the preceding year; and any such person, firm or corporation violating the provisions of this act shall forfeit to the said Firemen's Pension and Relief Fund the sum of \$100.00

to be recovered against such person, firm or corporation, so violating such provisions, by suit brought in the name of the said Board of Trustees of the Firemen's Pension and Relief Fund; and all such forfeitures and penalties, provided for herein, shall be and become a part of said Firemen's Pension and Relief Fund. Provided, however, that the said sum equal to one and one-half per centum of gross premiums, less return premiums, required by this paragraph (c) of this section 11 to be paid by fire insurance companies into said Firemen's Pension and Relief Fund shall be treated and held to be a part of the maximum of four per cent (4%) on each one hundred dollars, or major fraction thereof, of gross premiums, less return premiums, which any municipal corporation may by law impose upon any fire insurance company in any one year as a license or privilege tax for the privilege of doing business in such municipality during such year under Section 160.10 of Section 348, Chapter 8 Article 13 of the General Revenue Act of 1935 approved July 10th, 1935. D. That the governing body of any such city shall cause to be paid into said Firemen's Pension and Relief Fund, out of the treasury of such city, an amount equal to six per centum of the salary of each member of such fire department, and such payment shall be made as and when such salary becomes payable and deduction therefrom is made as provided in subdivision B of this section. "E". There shall also be added to said fund a sum to be secured by deducting from the compensation or benefit payable to any retired member of said Department or any person now or that hereafter may be entitled to any compensation or benefit an amount equal to six per centum of such compensation or benefit each month which amount shall be payable into said relief fund. Section 12. Existing funds and property belonging to or a part of the Firemen's Pension and Relief Funds, in the respective cities governed by the provisions of this act, shall be held and administered, used and governed, in the respective cities affected hereby, and transferred and converted into the Firemen's Pension and Relief Fund, in such cities, respectfully, as provided herein, immediately upon this law becoming effective. Section 13. That the Board of Trustees of said Firemen's Pension and Relief Fund may, at any time, after considering the probable demands upon such fund in the near future, determine what portion of such fund may be safely withdrawn for investment for revenue purposes, and having determined what portion thereof shall be so withdrawn for that purpose, said Board of Trustees, shall then determine in what manner such investment shall be made, and all proceedings of the said Board of Trustees relating thereto shall be entered at length upon its records. Such investment shall only be by the purchase of the interest bearing bonds of the United States of America, or of the State of Alabama, or of any bonds lawfully issued by such city.

All income from such investments shall be and become a part of the said Firemen's Pension and Relief Fund. All such securities shall be deposited with the treasurer of the said Firemen's Pension and Relief Fund, and shall be subject to the management and control of the said Board of Trustees of the Firemen's Pension and Relief Fund. Section 14. That the said Board of Trustees of the Firemen's Pension and Relief Fund shall make a report to the Board of City Commissioners, or other governing body, of such city, and to each company of such fire department in such city, of the condition of such Firemen's Pension and Relief Fund on the first day of January of each and every year. Section 15. That the said Board of Trustees of the Firemen's Pension and Relief Fund may designate the depository or depositories of such Firemen's Pension and Relief Fund, and it shall be the duty of the treasurer of such fund to make deposits of such funds as directed by the said Board of Trustees. All interests received on such deposits shall be and become a part of such fund. Section 16. That all moneys ordered to be paid from said Firemen's Pension and Relief Fund shall be paid by the treasurer of such fund only upon warrants signed by the president of the said Board of Trustees and countersigned by the secretary thereof; and no warrant shall be drawn on such fund except by order of the said Board of Trustees, which shall be duly and regularly entered in the record of the proceedings of the said Board of Trustees. Section 17. That no portion of the said Firemen's Pension and Relief Fund shall, before or after its order for distribution by the said Board of Trustees to the person or persons entitled thereto under the provisions of this act, be held, seized, taken, subjected to, detained, or levied upon, by virtue of any attachment, garnishment, execution, injunction, writ, order, decree, or any other process whatsoever, issued out of or by any court of this state, for the payment or satisfaction, in whole or in part, of any debt, damage, demand, claim, judgment, or decree, against any beneficiary of such fund; but shall be exempt therefrom. That said fund shall be sacredly kept, held and distributed for the purposes named in this act, and for no other purpose whatsoever. Section 18. That if at any time there shall not be sufficient money in such Firemen's Pension and Relief Fund to pay each person entitled to the benefit thereof the full amount per month as herein provided, then an equal percentage of such monthly payment or payments shall be made to each beneficiary until the said fund shall be replenished to warrant the payment in full to each of the said beneficiaries. Section 19. The provisions of this act in relation to Firemen's Pension and Relief Fund shall apply to all persons now receiving pensions and/or relief from the Firemen's Pension and Relief Fund of any such city, who have been placed on such pension or relief roll under any former law or laws, and

shall also apply to all cases in which an application for pension or relief is now pending before any such Board of Trustees. Section 20. That if any member of such fire department, while in performance of his duty, become and be found to be temporarily totally disabled, mentally or physically, for service in such fire department, by reason of service therein, the said Board of Trustees shall order the payment of such disabled member, monthly, during such total disability, not to exceed one year in any event, from such fund, a sum equal to two-thirds of the monthly compensation allowed such member as salary in such fire department at the date of his disability; provided such member, during the same period, is paid no salary as such member. Section 21. That if any member of such fire department, while in the performance of his duty, become or be found to be physically or mentally permanently disabled for service in such fire department, by reason of service therein, so as to render his retirement from such service necessary, said Board of Trustees shall retire such disabled member from service in such fire department, and upon such retirement, said Board of Trustees shall order the payment to such disabled member, monthly, from such fund, a sum equal to the designated per cent of pay of his particular position, office or class of work in said fire department as set out in table of pensions set forth in Section 25 hereof. Section 22. That the said Board of Trustees, with the approval of the city physician, or other reputable examining physician to be selected by it, shall have the power to retire from service in such fire department any member thereof who has become disabled while in the actual performance of his duty; or any member who has performed faithful service in such fire department for a period of not less than ten consecutive years; and shall in each case place the member so retired on the pension roll, and he shall receive from such fund a sum equal to the designated per cent of pay of his particular position, office or class of work in said fire department as set out in table of pensions in Section 25 hereof, which said sum shall be so paid to him monthly. Section 23. That any member of such fire department who has been in the service thereof for as long as twenty years, the last five of which is consecutive, and shall have attained the age of fifty-five years, upon making written application to said Board of Trustees therefor, shall without medical examination or disability, be retired from service in such fire department; and upon such retirement, the said Board of Trustees shall direct payment to such retired member, monthly, from such fund, a sum equal to eighty per cent of the designated per cent of pay of his particular position, office, or class of work in such department as set out in table of pensions in Section 25 hereof. Section 24. That any member of such fire department who has been in the service

thereof for as long as twenty-five years, the last five of which is consecutive, upon making written application to the Board of Trustees therefor, shall, without medical examination or disability, be retired from service in such fire department; and upon such retirement, the said Board of Trustees shall direct the payment to such retired member, monthly, from such fund, a sum equal to the designated per cent of pay of his particular position, office or class of work in said fire department as set out in table of pensions in Section 25 hereof. Section 25. That all pensions and relief and retirement pay provided for in this act shall be on a graduating scale and shall increase or decrease in accord with the increase or decrease of the salaries of active members of such fire department and is and shall be fixed as stated in the following table of pensions, unless the pay is otherwise provided for in this act, namely: First, second and third class firemen, sixty-five per cent of a first class fireman's pay. All higher salaried members, sixty-five per cent of a first class fireman's pay plus ten per cent of the amount of the difference between their respective salaries and the salary of a first class fireman. No pensioner shall receive more than eighty per cent of a first class fireman's pay except that nothing herein contained shall have the effect of reducing the pension of any pensioner retired as chief of the fire department below the sum of one hundred dollars per month, it being the intent hereof that such pensioner so retired as such chief shall in all events receive a minimum monthly benefit of one hundred dollars or more. Section 26. That after any member of such fire department shall have retired upon pension by reason of disability, the said Board of Trustees shall have the right, at any time, to cause such retired member to be brought before it and again examined by the city physicians and other competent physicians and surgeons, to be selected by it, and also to examine other witnesses for the purpose of discovering whether such disability yet continues, and whether such retired member should be continued on the pension roll, but such retired member shall remain upon the pension roll until reinstated in the active service of such fire department. Such retired member shall be entitled to notice, and to be present at the hearing of any such evidence, shall be permitted to propound any questions pertinent or relevant to such matter, and shall also have the right to introduce upon his own behalf any competent evidence he may see fit. All witnesses so produced shall be examined under oath; and any member of such Board of Trustees is hereby authorized and empowered to administer such oath to such witnesses. The decision of such Board of Trustees shall be final and conclusive and no appeal shall be allowed therefrom, nor shall the same be subject to review or reversal, except by said Board of Trustees. Section 27. That if any

member of such fire department shall, while in the performance of his duty, be killed or dies as a result of any injury received in the line of his duty, or of any disease contracted by reason of his service in such fire department, or shall die from any cause whatsoever as the result of his service in such fire department and while in such service; or after having served in such fire department for five consecutive years or more shall die, while in the service, or on the retired list, from any cause, and shall leave a widow to whom he was married at the time of such retirement, or child or children under the age of sixteen years, surviving, said board shall direct the payment from said fund, monthly, to such widow, during her natural life and while unmarried, a sum equal to 30% of a first class fireman's salary, and for each child until it reaches the age of sixteen years, a sum equal to 10% of a first class fireman's salary, which said sum for the benefit of such child or children shall be paid, monthly, to only their legal guardian. Should such deceased member leave no widow or children, but a widowed mother, dependent upon him for support, the said Board of Trustees shall pay to her, during her natural life and so long as she remains unmarried, a sum equal to 30% of a first class fireman's salary, said sum to be paid her monthly. The sums herein provided to be paid widows, orphans, and dependent mothers of deceased members shall be on a graduating scale, and increased or decreased according to the salary of active members of such fire department. Section 28. That whenever an active or retired member of such fire department shall die as aforesaid, the said Board of Trustees shall, in addition to the sums paid as benefits to any disabled, retired or discharged member of such fire department, or his dependents, as provided for under this act, appropriate from the said fund the sum of one hundred dollars which shall be paid to the beneficiary of such deceased member; and the said Board of Trustees may, in its discretion, order the payment of a sum not exceeding fifty dollars for the expense of the attendance of the members of such fire department at the funeral of such deceased member. Section 29. That when any member of such department shall be confined to his bed, or under the necessary care of a physician, by reason of sickness or other disability not hereinabove provided for, for as long a period as seven days, the said Board of Trustees shall direct the payment to such member from such fund of the sum of fourteen dollars, weekly, while so confined, not to exceed in any event twelve weeks; provided, however, such member shall not be entitled to any benefits or relief under this section, if such sickness or disability shall be caused by dissipation, immoral conduct or vicious habits. Section 30. That in all matters involving the disability or sickness of members of such fire department, the said Board of Trustees may have such disabled

member, if it sees fit, examined by the city physician, or such other reputable physician or surgeon as may be selected by it, who shall report to the said Board of Trustees the result of such examination in writing; and it is hereby made the duty of such city physician when requested so to do by the said Board of Trustees, to make such examinations and to report thereon as aforesaid; provided, however, such disabled or sick members of such fire department shall have the right, at their option, to select any physician or surgeon who shall be present and participate in such examination, and in the event such physician or surgeon, so selected, and the physicians or surgeon, selected by said Board of Trustees, cannot agree as to the diagnosis or condition of such disabled or sick member, then both of said physicians or surgeons shall select a third physician or surgeon who shall also examine such disabled or sick member, and the opinion of the majority of the three physicians or surgeons, so selected, as to such member's condition, shall be binding and shall be accepted by said Board of Trustees. Section 31. That after a member of such fire department shall have served in such fire department for fifteen consecutive years and shall be discharged from such fire department, he shall be reimbursed all sums paid by him into said funds less any benefit paid to him from said fund which shall be ordered to be paid to him by the said Board of Trustees. Section 32. That there shall be kept by the secretary of the Trustees a book to be known as the List on Retired Firemen. Such book shall also give a full and complete history and record of the action of the said Board of Trustees in retiring any and all persons under this act, showing the names, date of entering the service of such fire department, date of retirement, and the reason for such retirement, if any. Section 33. That when the widow or children or widowed mother, or either of them, shall be entitled to a pension as provided in this act, such widow or children or widowed mother shall make or cause to be made an application to the Board of Trustees through the secretary of such Board, on a form to be provided by said Board, which shall show, in the case of the widow, proof of the marriage of the deceased to the claimant, by marriage certificate or other competent evidence; and proof of the widowhood of the mother of such deceased member, and her dependency for support upon him, shall be shown by affidavits of such widowed mother or disinterested persons; and the birth and ages of such children shall be shown by affidavits of the mother of such children; or disinterested persons, and by any other competent evidence. All applications and proofs shall be kept and retained in the custody of the said Board of Trustees. Section 34. That it shall be the duty of the city attorney of such city to give advice to the said Board of Trustees in all matters pertaining to the duties of the said Board of Trustees and the management of such fund, whenever re-

quested to do so, and he shall represent and defend the said Board of Trustees as its attorney in all suits and actions at law or in equity that may be brought against it, and during all suits and actions in its behalf that may be required or determined upon by said Board of Trustees; and the said Board of Trustees shall have the authority to employ such other counsel as it may see fit in such matters, and to pay out of such fund reasonable attorney's fee to such counsel as it may employ as aforesaid. Section 35. That said Board of Trustees shall be authorized to pay out of such fund all reasonable and necessary expenses that may be incurred by it in and about the performance of its duties under this act and in and about the management and administration of such fund; provided that in no event shall the members of said Board of Trustees, or the secretary thereof, receive any salary or compensation for their services out of said fund, except that the Trustee elected by the Personnel Board or governing body shall be paid ten dollars for each meeting attended by him, but in no event for more than two meetings in any calendar month. Section 36. That each fire insurance company doing business in such city shall file with the said Board of Trustees, on or before the first day of March of each year, a statement or report in writing, showing the gross amount of premiums, less returned premiums received by such fire insurance company for and on account of business done by it in such city during the preceding year; which such statement or report shall be sworn to by the agent of such fire insurance company in such city; or some other person having knowledge of the facts; and any such fire insurance company failing to make and file such report and statement as aforesaid, shall be subject to the same penalties as are provided in Subdivision C of Section 11 of this act, to be collected as in said Subdivision C provided for the benefit of such fund. Section 37: No person employed after the effective date of this act by any city subject hereto shall be entitled to the benefits nor subject to the burdens hereof. All benefits under the provision of this act shall be reduced each month by an amount which the beneficiary receiving the same received during the then last previous month as salary, wages or compensation from any town, city, county or the State of Alabama. Section 38. That if any section or provision of this Act shall be held or declared to be unconstitutional or void, it shall not affect or destroy the validity or constitutionality of any other section or provision of this act which is not, of itself, void or unconstitutional. And every section and part thereof in this act shall apply to every city as indicated and provided herein—words written in the singular number to be construed so that same shall so apply and govern. Section 39. That all laws and parts of laws in conflict with the provisions of this act be and the same are hereby repealed.

Section Two. That this amending and reenacting act shall become effective upon passage.

Approved September 19, 1939.

No. 574)

(H. 590—Snyder

AN ACT

To amend Sections 3, 4 and 18 of an Act entitled "An Act to amend and reenact an Act entitled an Act to create in all cities of the State of Alabama which have a population of as much as one hundred thousand people according to the last Federal census, or which shall have such population according to any such census that may be hereafter taken special funds to be known as Policemen's Pension and Relief Fund, same created in connection with the regularly organized and paid police departments of such cities; to provide for the setting apart of such funds, to create a pension and relief system applicable to members of the police departments of such cities; to provide for the creation of such funds and for appropriations to make up deficit therein and how such funds shall be raised or acquired; to provide for the placement and handling of such funds; to provide who shall come under the provisions of this Act; to provide who shall hear and decide applications for pension and relief; and for the drawing of warrant against said funds; and to provide against such funds being subject to garnishment or levy and sale under execution or otherwise; to provide payments for disabled members of the police department in such cities during their disability, and for the retirement of such members on pension, either by reason of term of service or disability; to provide for the pensioning of members of such police department after twenty years of service therein, the last five of which are consecutive years of service; to provide for allowances or benefits to widows and children and dependent widowed mothers of such members of police department in the event of death of such member; to provide for the appropriation for funeral expenses upon the death of such member; to provide for the examination by proper authorities of such members in case of sickness or disability; to provide for applications to be made by widows and children or widowed mothers for benefits; to provide that members receiving benefits shall be bona fide residents of the county in which the city is located which creates the fund from which such members, respectively, receives benefit; to provide for gifts, donations, legacies or otherwise to be made to such funds and for the appointment of trustees for all purposes in connection therewith; and providing that any section or provision of the Act being held unconstitutional shall not affect the validity of any other section or provision; to provide when the Act shall take effect; to provide that all laws and parts of laws in conflict with the provisions of the Act be repealed. Approved February 16th, 1923," which was approved September 29th, 1923.

Be It Enacted by the Legislature of Alabama:

Section 1. That Section 3 of an Act No. 502 of the Regular Session of the Legislature of Alabama of 1923, approved September 29, 1923, and commencing on page 663 of the General Acts of Alabama of 1923, be, and said Section 3 hereby is, amended so as to read as follows: "Section 3. This act shall and does create a relief system which applies to the members of the police depart-

ments of such cities, all as herein set forth; and said policemen's relief funds as provided for and created herein shall be received, obtained and created in each respective such city, first, by setting apart and paying into such funds each month out of the treasury of the respective cities affected hereby, same to be held by the governing body of every such city as other city funds are held and controlled, except as herein otherwise provided, an amount equal to six per centum of the salary of each such member of such police department for such month, and, second, by deducting from the salary of each member of such police department, and from the pension payable to any retired member of such police department now or that might hereafter be entitled to compensation or benefits from said fund each month an amount equal to six per centum of such salary or such pension for such month and paying the amount of such deductions into said policemen's relief funds. And shall such fund at any time be insufficient to pay and defray the expenses as provided in this act, such cities as are hereby affected, respectively, shall appropriate from any funds not otherwise appropriated a sufficient amount to make up such deficit and shall in its budget subsequent thereto provide for a sufficient amount to make up any anticipated deficit in said funds. Should any member of the Police Department retire from the service of such city, or be removed from the service for any cause, before becoming eligible for a pension hereunder there shall be refunded to him the full amount of the deductions from his salary paid into said fund, without interest, less one-half of the disability benefits paid to him under this act. The return of the contribution to said fund herein provided for shall be made on order of the pension board after said proof of such contribution has been made to the board. No person employed after the effective date of this amendatory act by any city subject hereto shall be entitled to the benefits nor subject to the burdens hereof. The benefits paid under this act shall be reduced each month by the amount which the beneficiary receiving same, received during the then last previous month as salary, wages or compensation from any town, city, county or the State of Alabama.

Section 2. That Section 4 of Act No. 502 of the regular Session of the Legislature of Alabama of 1923, approved September 29, 1923, and commencing on page 663 of the General Acts of Alabama of 1923, be, and said Section 4 hereby is, amended so as to read as follows: "Section 4. In every such city it shall be the duty of the comptroller or other person performing the duties of treasurer to pay into said policemen's relief fund, from the respective sources described in Section 3 hereof, the respective percentages specified in said Section 3."

Section 3. That Section 5 of Act No. 502 of the regular session of the Legislature of Alabama of 1923, approved September

20, 1923, and commencing on page 663 of the General Acts of Alabama of 1923, be, and said Section 5 hereby is, amended so as to read as follows: Section 5. That the fund so created, after same has come into being and is established, shall be managed by a Pension Board. Said Pension Board shall consist of the three following members: The President of the governing body of said city, who shall be chairman of said Pension Board; one member elected by the Civil Service Board having jurisdiction over the police department of the city, which member shall be a person engaged in the banking business and who has been engaged in such business for a period of at least ten years next preceeding his election; and one member elected by the members of the police department subject to the provisions of this Act. The Civil Service Board and the members of the police department subject to the provisions of this act, shall elect said respective members of the Pension Board within thirty days after the approval of this act. The term of the respective elected members shall terminate on the same date on which the term of office of the president of the governing body of the city terminates. The Civil Service Board and the members of the police department subject to the provisions of this act, within thirty days prior to the time fixed by law for the termination of the term of office of the president of the governing body of such city, shall elect successors to the elected members. It is provided, however, that any member of the Pension Board may succeed himself. In the event of a vacancy on said Board, a successor to fill the unexpired term shall be elected by the appointing authority which elected the person who last held the position vacated prior to the vacancy. The Pension Board shall direct the placement of the fund hereby created with banks so that the same may draw interest on any part not used. The Pension Board is authorized to invest such part of the fund as is not necessarily in use, in general obligation bonds issued by such city, the State of Alabama, or the United States Government. The Pension Board shall not invest any funds in any manner other than as specifically authorized in this Section." In the event any such city is subject to any civil service or merit system act the personnel Director shall be secretary of said Board.

Section 4. That Section 7 of Act No. 502 of the regular session of the Legislature of Alabama of 1923, approved September 29, 1923, and commencing on page 663 of the General Acts of Alabama of 1923, be, and said Section 5 hereby is, amended so as to read as follows: "Section 7. The Pension Board created by Section 5 of this act shall hear and decide all applications for relief or benefit under this act, and their decision on such applications shall be final and conclusive, and not subject to review or reversal except by such authority itself. The Board shall cause to be kept a complete

and special record of all its meetings and proceedings under the provisions of this act."

Section 5. All laws or parts of laws in conflict herewith are hereby repealed.

Section 6. That this act shall become effective upon passage.

Section 7. That if any section, clause or provision of this act shall be or declared to be unconstitutional or void, it shall not affect or destroy the validity or constitutionality of any other section, clause or provision of this act which is not of itself void or unconstitutional.

Approved September 19, 1939.

No. 575)

(H. 647—Beck

AN ACT

To amend Section 13 of an Act entitled "An Act to provide for and regulate and control primary elections for nomination by political parties of candidates for public office within the State of Alabama," approved February 25, 1931.

Be it Enacted by the Legislature of Alabama:

Section 1: Amend Section 13 of an Act entitled "An Act to provide for and regulate and control primary elections for nomination by political parties of candidates for public office within the State of Alabama," approved February 25, 1931, to read as follows: Section 13. Each candidate for nomination may at least twenty five days before the primary, present to the County executive Committee of his party a list of election officers desired by him for any one or more of the districts, wards or precincts; and his county committee shall, so far as practicable, make up, from the list so presented to it, a list of names of election officers, six in number, for each district, ward or precinct, which it will nominate to the appointing board of the County for appointment as officers to conduct the primary election and the County Committee shall present the list so made up by it to the appointing board of the county, which appoints the election officers to conduct elections for state and County officers in November, or at any other lawful time, which appointing board from the list so presented to it by the County Committee shall if there be on said list the names of sufficient persons who are legally eligible select and appoint the officers to conduct the primary election, observing the above rule as to representation wherever more than one party enters the primary and in the latter case if a county committee has not given a sufficient number of names for a box, then the appointing board shall supply the deficiency from electors of that party. In the event the person selected as officers fail to appear at the polling place by

eight o'clock A.M. on the day of the primary election, then their places shall be filled by such of those who have been named by such appointing board, as do appear; and in the event none so named appear by eight o'clock A.M. then the voters present qualified to participate in such primary election may, from among themselves, select officers to conduct such election in such district or precinct, and such substituted persons, shall have the authority to conduct such elections, and to be paid for their services in the same manner as if they had been originally appointed. All officers, serving in such primary elections shall take the same oath required to be taken by officers of regular state elections, which oath may be administered by any person authorized by law to administer oaths, or by any one of the inspectors. The officers of all primary elections held under provisions of this Act shall have the same power and privileges as officers of regular State elections, and shall be subject to the same restrictions, limitations, penalties and conditions.

Section II: If any portion, paragraph or section of this Act be held unconstitutional by any Court of competent jurisdiction of this State, the other portions, paragraphs or sections shall remain in full force and effect.

Section III: All laws or parts of laws in conflict with this Act are hereby repealed.

Section IV: This Act shall become effective immediately upon its passage and approval by the Governor or is otherwise enacted into law.

Approved September 21, 1939.

No. 576)

(H. 660—Dominick

AN ACT

To amend Section XXXV of an Act entitled "An Act to further provide for the general revenue of the State of Alabama," approved February 8, 1939.

Be it Enacted by the Legislature of Alabama:

Section 1. That Section XXXV of an Act entitled "An Act to further provide for the general revenue of the State of Alabama," approved February 8, 1939, be and the same is hereby amended to read as follows: "Section XXXV. Any and all expenses, including salaries, necessary to provide for the administration and enforcement of this Act shall be paid out of the proceeds of the collection therefrom before any distribution or disbursement. After the payment of the expenses, so much of the amount remaining, as may be necessary, after first applying all sums of money received by reason of the application of the surplus in the Income Tax as

provided by House Bill No. 382, Legislature of Alabama of 1939, entitled "A bill to be entitled an act to appropriate out of the surplus of Income Tax, after provision has been made for the administration of said Act, and the payment at anytime of the next two maturing installments of interest, and the next maturing installment of principal on warrant refunding bonds of the State of Alabama issued, or to be issued pursuant to authority contained in Act No. 50 of the Legislature of Alabama passed at the Regular Session, 1935, and approved February 8, 1935, to the Property Tax Relief Fund such an amount as may be necessary for the replacement of any revenues lost by exemption of homesteads from all State ad valorem taxes, provided by Act No. 107 of the Legislature of Alabama, Special Session 1936 - 37, approved February 20, 1937', and by House Bill 964 of the Legislature of Alabama, Regular Session 1939, approved September 15, 1939, for the replacement in the Public School Fund of the three-mill constitutional levy for schools and in the General Fund of the one-mill levy for Soldiers' Relief and the two and one-half mills for general purposes lost by any exemption of homestead provided by legislation enacted during Special Session 1936-37 of the Legislature of Alabama and Regular Session 1939 of the Legislature of Alabama shall be first charges against the proceeds of said licenses, taxes or receipts levied or collected under this Act. The Comptroller, with the approval of the Governor, is hereby directed to draw his warrants payable out of the total proceeds of said licenses, taxes or receipts levied or collected under this Act as herein provided in such sum as shall be found necessary to take care of and replace the three-mill constitutional school levy, the one-mill Soldiers' Relief levy and the two and one-half mill levy for general purposes of the State ad valorem taxes lost as above set forth. If the amount of such collections in any fiscal year, remaining after the payment of the expenses of administration and replacement of the amounts in the several funds as herein provided, is equal to or greater than four million, two hundred thousand dollars (\$4,200,000.00) then the sum of one million, fifty thousand dollars (\$1,050,000.00) shall be paid into the State Treasury to the credit of the sixty-seven counties of the State, to be divided and distributed as hereinafter provided. If the amount of such collections in any fiscal year, remaining after the payment of expenses of administration, and the replacement of the amounts in the several funds derived from the State six and one-half mill tax, as herein provided, is less than four million, two hundred thousand dollars (\$4,200,000.00) then an amount equal to one-fourth thereof shall be paid into the State Treasury to the credit of the sixty-seven counties of the State, to be divided and distributed as hereinafter provided. The amount deposited to the credit of the sixty-seven counties as above provided (which in no one fiscal

year shall exceed one-fourth of the amount of collections remaining after the payment of the expenses and charges herein first required to be paid nor shall it in any event exceed the sum of one million, fifty thousand dollars for any one fiscal year) shall be divided and distributed as follows to-wit: One-half of said proceeds shall be divided and distributed proportionately among the sixty-seven counties of the State according to the population of the said counties as shown by the last Federal Census; and one-half of said proceeds shall be divided or distributed equally among the sixty-seven counties; provided that the funds divided and distributed to the several counties of the State as hereinabove provided for shall be used exclusively for full-time health service in cooperation with the State Board of Health and/or the Federal Government; for public welfare in cooperation with the State Department of Public Welfare and/or the Federal Government; and for extension services in cooperation with the Alabama Agricultural Extension Service and/or the Federal Government, at the discretion of the Commissioners Court, Boards of Revenue, or other governing bodies of the several counties of the State. The amount of the proceeds of all taxes levied by this Act remaining after the payment of the expenses of administration and enforcement and the replacement in the several funds of the amount lost by any homestead exemptions and the distribution to the sixty-seven counties as herein provided shall be paid into the Alabama Special Educational Trust Fund."

Section 2. That all laws and parts of laws in conflict herewith are hereby repealed.

Section 3. This Act shall take effect upon its passage and approval by the Governor.

Approved September 21, 1939.

No. 577)

(H. 702—Carwile

AN ACT

To amend Section 6752 of the Code of Alabama of 1923.

Be it Enacted by the Legislature of Alabama:

Section 1. That Section 6752 of the Code of Alabama of 1923 be amended so as to read as follows: "6752. REGULAR TERMS ETC., Regular terms of the court are held on the second Mondays in each month of each year. Provided, however, that the provisions of this Act shall not apply to any county of this state having a population according to the last or any subsequent census of 50,000 or more. Provided, further, that this Act shall not operate to repeal any local law affecting any county with respect to the matters contained in this Act.

Approved September 21, 1939.

AN ACT

To provide for and regulate a system of Probation and Parole of persons convicted of crime in Juvenile and Domestic Relations Courts and courts of like Jurisdiction in each and all counties of this State which now have a population of ninety-eight Thousand population or more, according to the last Federal Census or which shall have such population or more according to any such census hereafter taken; to authorize the suspension of the execution of sentences in such cases; to provide for the release on probation and supervision of persons on probation or parole and whose sentences are suspended; to prescribe the conditions of probation and parole; to provide for the rearrest and recommitment of Probationers and Parolees violating their conditions of probation or parole; and to provide for the payment of costs of court in cases where execution of sentence is suspended.

Be it Enacted by the Legislature of Alabama:

Section 1. PROBATION AND SUSPENSION OF EXECUTIONS OF SENTENCES: Juvenile and Domestic Relations Courts and courts of like jurisdiction in each and all counties of this State which now have a population of ninety-eight Thousand population or more, according to the last Federal Census or which shall have such population or more according to any such census hereafter taken; or the Judge thereof, in all criminal cases, or quasi criminal cases, which said court now has jurisdiction or which court may hereafter be given jurisdiction, after a plea of guilty or after conviction may suspend or withhold the penalties provided by law, and may by such order release the Defendant on probation under such terms and conditions as to him shall seem just or said Judge or Court imposing a fine or sentence may suspend the payment of such fine or the execution of sentence or stay the execution thereof or any part thereof and may by such order, release the Defendant on probation and when so released, such defendant, probationer or parolee shall be under the supervision of the probation officer of said court, upon such terms and conditions as to the Judge or Court shall seem just and conducive to the ends sought by this Act, and other Acts pertaining to said Court, and such Judge or Court may change or modify such terms or conditions of probation from time to time. At the time of withholding or suspending such sentence or fine or both, the Court or Judge thereof shall have the right to order, as a condition thereto that the Defendant shall execute a probation bond or appearance bond, to be approved by said Court or Judge in such sum as shall seem just, conditioned to comply with the terms of said order or stay, suspension of sentence or probation, and to appear in said court at such times as such bond or order may require during his probation. Such bond may be with or without surety. The period of probation or suspension of the payment of fine or any part there-

of, or the suspension of the execution of sentence or any part thereof shall be determined by the Court and such period may be continued or extended. Upon the satisfactory fulfillment of conditions of probation or suspension of fine or sentence, the Court may by order duly entered upon the minutes discharge the Defendant. The Judge of said Court may suspend the payment of court costs, or may order that such costs may be paid in whole or in installments in such cases as to him seem just.

Section 2. Any Probation Officer, Police Officer, or other officer with power of arrest upon the request of the Probation Officer of said Court, may arrest the Probationer or Parolee without a warrant. In case of arrest without a warrant the arresting officer shall have a written statement by said Probation Officer setting forth the Probationer or Parolee has, in his judgment, violated the conditions of probation or parole and said statement shall be sufficient warrant for the detention of said Probationer or Parolee in the County Jail, or other appropriate place of detention, until such Probationer or Parolee shall be brought before the Court, and it shall not be necessary for said Judge to issue a warrant in such cases. Such Probation Officer shall forthwith report such arrest and detention to the Court. If at any time the said court or Judge thereof be satisfied that the Defendant has violated or is about to violate any of the terms or conditions of his probation or order of release or suspension of sentence or payment of fine or probation bond or appearance probation bond, or parole, said court or Judge may forthwith or after further probation, without notice to Defendant issue a warrant for the arrest of such Defendant, Probationer, or Parolee to bring such Defendant, Probationer or Parolee before the Court instantler, or that said Defendant, Probationer or Parolee shall be committed to jail to appear before the Court at a fixed time, in which latter case pending such time the Court or Judge may allow bail to such Defendant, Probationer or Parolee in such sum as the Court or Judge thereof shall fix, failing to make, such Defendant, Probationer or Parolee shall be committed to jail to be brought before the Court for the imposition of the stayed, or deferred or withheld sentence, or serve the suspended sentence or execution of the suspended sentence, as the case may be; thereupon the Court may revoke the probation or suspension of execution of sentence and order the sentence to be immediately executed. The Judge of said Court shall have the right and authority from time to time after any part of such sentence has been served to parole and release such prisoner or defendant from the remaining part of such sentence and suspend the remaining part thereof and release the prisoner or defendant on probation as in the first instance and the Court or Judge may enforce or reenforce the remaining part of such sentence as said Judge or Court has in the first instance. The terms or period of

such sentence, or any remaining part thereof, after a part thereof shall have been served, shall commence from the date upon which sentence, or such remaining part thereof, is ordered to be enforced or executed. No such sentence or any part thereof, shall be stayed or suspended for a period longer than two years, provided such Defendant, Probationer or Parolee has faithfully complied with the terms or conditions of his probation or parolee. Nor shall said sentence, or any part thereof, if the Defendant, Probationer or Parolee has faithfully complied with his probation, or no warrant having been issued for his arrest, be enforced after said period of two years from the date of the original stay or suspension thereof. If at any time after the original stay or suspension of said sentence, it shall appear to the satisfaction of said Judge, that the Defendant has complied faithfully with the terms of said stay or suspension, the said Judge may enter an order staying or suspending such sentence absolutely, in which case such Defendant shall be released therefrom.

Section 3. No appeal shall be granted or allowed to any Defendant or Probationer or Parolee or prisoner from any order or judgment ordering the execution of a suspended sentence in said court, to the Circuit Court, nor shall the order of said Court be revisable by any court and defendants who are released on probation shall be deemed to have waived any right of appeal from a judgment of conviction or sentence in said Court to the Circuit or Appellate Court. If a fine is imposed or costs taxed against the Defendant and said Defendant is released on probation, or in any case the Court may direct that said fine or costs be paid in whole or partial payments and if said Defendant fail to pay such fine or costs as directed may be sentenced by the Court for his failure to pay said fine or costs as provided by law.

Section 4. Whenever any such Courts or the Judge thereof shall issue a warrant for the arrest of the Defendant, Probationer or parolee all costs or expenses incurred by any sheriff probation officer or any lawful officer in bringing or attempting to bring any Defendant or Probationer or parolee from another County in this State or from another State back to the County having jurisdiction of such cases may be taxed against such Defendant, Probationer or Parolee by the Court as part of the costs of Court, and if such person fails to presently pay said costs be sentenced to hard labor for the County for such time as will be necessary to pay such cost at the rate as is now or hereafter provided by law for each day so served at hard labor.

Section 5. In all cases the Court shall have the authority and power to suspend the payment of fines or remit fines and forfeitures.

Section 6. All laws or parts of laws in conflict with provisions of this Act are hereby repealed.

Section 7. Any part or provision of this Act held to be unconstitutional by a court of competent jurisdiction shall not affect the remaining part of said Act but same shall remain in full force and effect.

Section 8. This Act shall be effective from and after its passage and approval by the Governor.

Approved September 22, 1939.

No. 579)

(H. 733—Allen

AN ACT

To amend Section 8498 of the Code of Alabama of 1923:

Be it Enacted by the Legislature of Alabama:

Section 1. That Section 8498 of the Code of Alabama of 1923 be amended so as to read as follows: 8498. **AUTHORITY OF ATTORNEY GENERAL AND POLICYHOLDERS TO INSTITUTE PROCEEDINGS.**—No action in quo warranto for the dissolution of any such domestic society shall be entertained by any court of competent jurisdiction, unless the same is made by the Attorney General. Irrespective of the matter of dissolution of any such society, the right to institute proper proceedings in any court of competent jurisdiction for the appointment of a receiver for the protection and preservation of the trust fund of any such domestic society which is being depleted and dissipated fraudulently and wrongfully, to the irreparable injury of policyholders who have a property right interest in such fund, is vested also in the Attorney General; but, in the absence of any action on the part of the Attorney General, nothing in this section shall prohibit the institution of proper proceedings in a court of competent jurisdiction by any proper party.

Section 2. This Act shall become effective upon its passage and approval by the Governor.

Approved September 19, 1939.

No. 580)

(H. 847—Stone, Megginson, Langan

AN ACT

To amend An Act entitled "An Act To authorize the creation and incorporation of a Commission, providing for its powers and duties, authorizing it to lease or purchase construct and reconstruct Highway Bridges, approaches and appurtenances thereto, across any river in the State of Alabama or across any body of water separating the main land of the State of Alabama from any island forming a part of the State of Alabama, to maintain and operate said bridges, approaches and appurtenances thereto,

and charge tolls thereon, and to issue bonds; providing for the payment of such bonds and providing for the rights and remedies of bondholders," approved February 7, 1935, as amended; and to authorize the State Highway Department to aid in the construction, reconstruction, maintenance and operation of any such Bridges, and to contract with such Commission with reference thereto; and to ratify the change heretofore made in the name of the corporation organized pursuant to said act.

Be it Enacted by the Legislature of Alabama:

Section One. That an Act entitled "An Act To authorize the creation and incorporation of a Commission, providing for its powers and duties, authorizing it to lease or purchase construct and reconstruct Highway Bridges, approaches and appurtenances thereto, across any river in the State of Alabama or across any body of water separating the main land of the State of Alabama from any island forming a part of the State of Alabama, to maintain and operate said bridges, approaches and appurtenances thereto, and charge tolls thereon, and to issue bonds; providing for the payment of such bonds and providing for the rights and remedies of bondholders," approved February 7, 1935, as amended, be and the same is hereby amended so as to read as follows: "Section 1. CREATION AND ORGANIZATION OF COMMISSION. That the creation and incorporation of a Commission are hereby authorized, for the purpose of constructing or reconstructing any Bridge, as such term is defined in Section 2 hereof; and said Commission is hereby authorized to provide for necessary funds for such purposes by issuing and selling bonds; and said Commission is authorized to operate and maintain any such Bridge for toll until the principal of and interest upon the bonds issued for the construction or reconstruction thereof shall have been paid in full, and until the cost of the construction or reconstruction thereof, including reimbursement to the State Highway Department or any other department, agency or instrumentality of the State for any contributions or expenditures made by said Department or department, agency or instrumentality during the period in which any of the aforesaid bonds remain outstanding and unpaid, in aid of the construction, reconstruction, maintenance or operation of such Bridge shall have been paid in full; after which such Bridge shall be operated free of toll. Said Commission shall consist of five members, duly qualified to hold office under the Constitution and Laws of Alabama, who shall be appointed by the Governor of the State and such members shall be deemed to take office as of the date of appointment and one member shall hold office for a term of two years from the date of appointment, one member shall hold office for a term of three years from the date of appointment, one member shall hold office for a term of four years from the date of appointment, one member shall hold office for a term of five years from the date of appoint-

ment, and one member shall hold office for a term of six years from the date of appointment, and the Governor shall designate the term of office of each member appointed. Their successors shall be appointed in like manner for a term of six years and vacancies in the office of such Commission occurring otherwise than by expiration of office shall also be filled by the Governor by appointment for the unexpired term. The Chairman of said Commission shall be appointed by the Governor from among the members of said Commission and in the event of a vacancy occurring in the office, the Governor shall also appoint one of the members to succeed to the office of Chairman, and the Governor may remove any member of the Commission at any time without cause. The members of said Commission shall be entitled to compensation only when actually rendering service for said Commission and the compensation shall not be more than \$1.00 per diem and traveling expenses and the number of days per year for which compensation may be received shall not exceed 52. The power of said Commission shall be vested in and exercised by the majority of the members of the Commission then in office. Said Commission may delegate to one or more of its members or its officers, agents, and employees such power and duties as it may deem proper, and shall appoint a Treasurer from among its members to act as custodian of all of the funds, from whatever source derived, received by said Commission, and shall deposit said moneys in a separate account or accounts in a bank or trust company which is duly qualified and doing business in the State of Alabama, provided, however, the Commission may, by resolution or by trust indenture securing the issuance of bonds herein authorized, designate a fiscal agent or trustee, which shall be a bank or trust company duly qualified to do business in the State of Alabama, and may authorize such fiscal agent or trustee to receive and disburse, upon such terms and conditions (and subject to such exceptions, if any,) as may be specified in such resolution or trust indenture, all proceeds from the sale of such bonds, all tolls and other revenues from such Bridge and all payments or contributions made in connection therewith, and all funds applicable to the payment of said bonds, and all funds applicable to the maintenance and operation of said Bridge. Said Commission shall be a public body and a body corporate and politic upon the completion of the taking of the following proceedings: The members of the Commission shall present to the Secretary of State of Alabama an application signed by them, which shall set forth (1) the name, official designation and official residence of each of the members of said Commission, together with a certified copy of the appointment evidencing their right to office, the date and place of induction into and taking oath of office, and that they desire the Commission to become a body cor-

porate and politic under this Act; (2) the term of office of each of the members and the place where, if any, the official appointment of each of said members is kept of record; (3) the name which is proposed for the corporation; (4) the location of the principal office of the proposed corporation; (5) any other matter relating to the incorporation which the members might choose to insert not inconsistent with the Constitution and Laws of the State of Alabama. The application shall be subscribed and sworn to by each of said members before an officer authorized by the laws of the State of Alabama to take and certify oaths, who shall certify upon the application that he personally knows the members and believes them to be the officers as asserted in the application, and that each subscribed and swore thereto in the officer's presence. The Secretary of State shall examine the application and if he finds that the name proposed for the corporation is not identical with that of a person or of any other corporation of this State or so nearly similar as to lead to confusion and uncertainty, he shall receive and file it and shall record it in an appropriate book of record in his office. When the application has been made, filed and recorded, as herein provided, the Commission shall constitute a corporation under the name proposed in the application; the Secretary of State shall make and issue to the said members a certificate of incorporation pursuant to this Act, under the seal of the State, and shall record the same with the application. The corporation shall have succession by its corporate name for thirty years, and thereafter until all its liabilities have been met and its bonds and other obligations have been finally paid and discharged. That said corporation shall have the privilege and power of amending the application filed by it with the Secretary of State for the purpose of completing the organization thereof, in any respect not contrary to the provisions of this Act, including the right to change the name of such corporation, and an amended certificate of incorporation may be issued by the Secretary of State under the new or changed name of such Corporation. "Section 2. DEFINITIONS. The term "Commission" as used in this Act shall be construed to mean the corporation created or organized under and pursuant to the provisions of Section 1 of this Act. The term 'Bridge' as used in this Act shall include any one or more of the following, together with approaches and appurtenances thereto, namely: bridges, draw-bridges, causeways, fills, trestles and connecting roadways or highways, which together form or comprise any one undertaking, which may be designated by the Commission (with the approval of the State Highway Department) as forming or comprising any one Bridge, which may be constructed or reconstructed, maintained and operated by the Commission across any river or rivers in the State of Alabama or from any designated point on the mainland of

the State of Alabama to any other designated point on said mainland, or on any island forming a part of the State of Alabama, over and across any river or rivers or body or bodies of water separating such designated point on the mainland of the State of Alabama from any other such designated point on such mainland or on any island forming a part of the State of Alabama, and over and across any island or islands, marsh or marshes, shoal or shoals, or reef or reefs intervening between said mainland and the other designated point on such mainland or on the island upon which such Bridge is to terminate, in accordance with the designation thereof. The Commission is hereby expressly authorized in and by resolution adopted by it, so to designate and describe (with the approval of the State Highway Department) any such Bridge; and the State Highway Department is hereby expressly authorized, in its discretion, to approve, by resolution, the Bridge so designated and described by the Commission, whereupon such designation shall be conclusive in law as to the validity of the inclusion of any bridge, drawbridge, causeway, fill, trestle or connecting roadway or highway, or the approaches and appurtenances thereto, in and as a part of any such Bridge. "Section 3. POWERS OF COMMISSION. The Commission shall have power: (a) to sue and be sued; (b) to have a seal and alter the same at pleasure; (c) to acquire, hold and dispose of real and personal property for its corporate purposes and to receive grants, gifts, donations and contributions of real and personal property, or any interest therein; (d) to acquire by purchase or condemnation real property and rights or easements therein necessary or convenient for its corporate purposes, and to use the same so long as its corporate existence shall continue, provided that no property now or hereafter vested in or held by the State, a county, municipality or subdivision of the State shall be taken by the Commission without the authority or consent of said State, county, municipality or sub-division of the State, nor shall anything herein impair or invalidate in any way any bonded indebtedness of said State, county, municipality or sub-division of the State; (e) to make by-laws for the management and regulation of its affairs, and subject to agreements with bondholders, for the regulation of the use of any Bridge constructed or reconstructed under the provisions of this Act, and the establishment and collection of tolls and revenues therefrom; (f) to appoint officers, agents and employees and fix their compensation; (g) to make contracts and to execute all instruments necessary or convenient; (h) to construct or reconstruct or maintain and operate any such Bridge; (i) to enter on any lands, waters and premises for the purpose of making surveys, soundings and examinations thereof, and to request the State Highway Department for assistance in locating, designing, and letting the contracts for the construction or reconstruction of

any such Bridge, and when requested to do so, the State Highway Department shall render such assistance; (j) to charge tolls for the use of any such Bridge subject to or in accordance with such agreements with bondholders as may be made as hereinafter provided; (k) to permit any person, firm or corporation to construct and maintain over, under, across or along any Bridge, telephone, telegraph or electric wires and cables, gas mains, water mains and other mechanical equipment not inconsistent with the appropriate use of such Bridge; (l) to borrow money and to issue bonds therefor in accordance with the provisions of this Act, with rights to bondholders as hereinafter described; (m) to do all things necessary or convenient to carry out the powers expressly given in this Act; (n) without limitation of the foregoing, to borrow money and accept grants from the United States Government or any corporation or agency created, designated, or established by the United States, and to enter into contracts with the United States or any such corporation or agency; (o) to enter into any contract or agreement with the State Highway Department, or any other Department, agency or instrumentality of the State, which may be deemed necessary or advisable by the Commission to aid in the construction or reconstruction or maintenance and operation of any such Bridge; and the State Highway Department is hereby expressly authorized and given full power to enter into and perform such a contract or contracts or agreement or agreements with the Commission, including the right to use for such purpose any funds available to said State Highway Department for the construction of roads and bridges in this State, or for the maintenance of roads and bridges in this State, or for the construction or reconstruction or maintenance and operation of roads and bridges in this State, whether or not operated for toll, provided, however, that any such contract authorized under the terms of this sub-paragraph shall be subject to the approval of the Governor; (p) to execute with reference to any such Bridge a trust indenture or trust agreement for the security of the bonds authorized to be issued for the construction of such Bridge, such trust indenture or trust agreement to be in form and substance as authorized and approved by resolution duly adopted by the Commission.

Section 4. FORM AND CONTENT OF BONDS. The principal of and interest on bonds herein authorized to be issued by the Commission shall be payable solely from the revenues to be derived from the tolls levied and collected in connection with the operation of the Bridge for which such bonds have been issued, and shall not constitute an indebtedness of the State, or any municipality, county, or political subdivision of the State within the meaning of any constitutional or statutory provision of the laws of the State. Said bonds shall be issued in the name of the Commission and shall have impressed

thereon its corporate seal. The bonds shall express upon their face the particular Bridge for which they are being issued, and there shall be a separate issue of bonds for each Bridge undertaken by the Commission as authorized by this Act. Said bonds shall be authorized by resolution of such Commission and shall bear such date or dates, mature at such time or times, not exceeding forty years from their respective dates, bear interest at such rate or rates, not exceeding six per centum per annum, payable semi-annually, be in such denomination or denominations, be in such form, either coupon or registered, carry such registration privileges, be subject to such terms of redemption, with or without a premium, be executed in such manner, be payable in such medium of payment and at such place or places, as such resolution or resolutions may provide. It shall be plainly stated on the face of each bond that the same has been issued under the provisions of this Act and that the bond and interest thereon do not constitute an indebtedness of the State, or any municipality, county, or political sub-division of the State within the meaning of any constitutional or statutory provision of the laws of the State. Such bonds may be sold at public or private sale for such price or prices as said Commission shall determine, provided that the interest cost to maturity or maturities of the bonds shall not exceed six per centum per annum. Said bonds are hereby declared to be negotiable instruments. "Section 5. COVENANTS IN RESOLUTIONS. Any resolution or resolutions authorizing such bonds may contain provisions which shall be a part of the contract with the holders of bonds issued for any Bridge, as to (a) designating and describing the Bridge; (b) pledging the tolls and revenues of such Bridge to secure the payment of such bonds; (c) the tolls to be charged for such Bridge and the amounts to be raised in each year by such tolls and the use and disposition of such tolls and other revenues of such Bridge; (d) the setting aside of reserves or sinking funds for such Bridge or such bonds and the regulation and disposition thereof; (e) limitations on the right of the Commission to restrict and regulate the use of the Bridge; (f) the operation and maintenance of the Bridge, including but not limited to insurance and the disposition of insurance moneys; (g) limitations on the purpose to which the proceeds of sale of any issue of bonds then or thereafter to be issued for such Bridge may be applied; (h) limitations on the issuance of additional bonds for any one or more of such Bridges; (i) the redemption of the bonds and the price or prices at which they shall be redeemable; (j) the procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, the amount of bonds the holders of which must consent thereto, and the manner in which such consent may be given; (k) the execution of an indenture of trust or trust agreement with reference to any

such Bridge to secure the payment of such bonds and assure the maintenance and operation of such Bridge and such indenture of trust or trust agreement may contain such terms, conditions and provision, not in conflict with the specific provisions of this Act, as may be in form and substance approved by the Commission, the State Highway Department and the Governor, and may designate a trustee and provide for the appointment of a successor or successors to such original trustee. "Section 6. REMEDIES OF BONDHOLDERS. Any holder of said bonds, including a trustee for bondholders, or trustee under the indenture of trust or trust agreement securing said bonds, shall have the right, subject to any contractual limitations binding upon any such holder or trustee, and subject to the prior or superior rights of others; (a) By mandamus or other suit, action or proceeding, at law or in equity, to enforce his rights against the Commission, and any member thereof, including the right to require the Commission to collect tolls and revenues adequate to carry out any agreement as to, or pledge of, such tolls and revenues and to require the Commission and the members thereof to carry out any other covenants and agreements and to perform its and their duties under this Act, or by mandamus or other suit, action or proceeding, at law or in equity, to require the Commission to enforce any contract or contracts, or agreement or agreements, made by the State Highway Department, or any other department, agency or instrumentality of the State of Alabama, with the Commission pursuant to this Act or under any other provision of law, with reference to any such Bridge, or the maintenance and operation thereof, including the payment or expenditure of any funds therefor, or for the performance of any work thereon, or duty with respect thereto; (b) by action or suit in equity to enjoin any acts or things which may be unlawful or a violation of the rights of any such bondholder; (c) by suit, action or proceeding to obtain the appointment of a receiver in the event of a default in the payment of bonds or interest thereon issued for any such Bridge, who may enter and take possession of the Bridge and operate and maintain the same and collect and receive all tolls and revenues thereafter arising therefrom in the same manner as the Commission itself might do, and shall deposit all such moneys in a separate account and apply the same in accordance with the obligations of the Commission as the Court may direct; (d) by mandamus or other suit, action or proceeding at law or in equity to enforce the rights of the bondholders or of any such trustee against the Commission organized pursuant to this Act or the members of said Commission, or against the State Highway Department or the Director or other officer or officers charged by law with the exercise of the powers, duties and authority of said State Highway Department, or against any other

department, agency or instrumentality of the State, or any officer or officers thereof charged by law with the exercise of any powers, duties or authority with respect to the construction, reconstruction, maintenance or operation of said Bridge, or for the use of funds of the State Highway Department or any such other department, agency or instrumentality of the State, or for the performance of any work, or to do or perform any other duty or obligation, or to exercise any discretion or any power or authority with respect to any such Bridge, the collection of tolls or other revenues therefrom, and any and all other rights in any wise affecting the construction, reconstruction, maintenance or operation of such Bridge, for the security or protection of the bonds issued for the construction thereof pursuant to this Act, or any rights accruing to said bondholders or to any such trustee under and by virtue of this Act or any other provision of law or under any contract or agreement relating thereto, and specifically to enforce any contract or agreement executed by the State Highway Department or any other department, agency or instrumentality of the State, in aid of or to induce the construction of such Bridge or to provide for the maintenance and operation thereof by contributions, work, labor or material, money or otherwise; (e) upon default in the performance by the State Highway Department of any contract or contracts or agreement or agreements executed by it, with the approval of the Governor, in aid of the construction of said Bridge or for the maintenance and operation thereof, the Commission may, and upon written demand by any bondholder or by the trustee for said bondholders or by the trustee under any indenture of trust or trust agreement securing said bonds, said Commission shall institute action by mandamus or otherwise against the State Highway Department or any officer or officers thereof or officer or officers exercising supervision or control over said State Highway Department or any officer or officers of the State having the right, power or authority to exercise the powers and perform the duties of said State Highway Department, to appropriate, withdraw or disburse the State Highway Fund or funds now or hereafter available to the State Highway Department for construction, reconstruction, maintenance or operation of the public roads and bridges in the State, to compel performance of any such contract or agreement and to compel the performance of any duty relating to said Bridge, or the maintenance or operation thereof; (f) upon default in the performance by any other department, agency, or instrumentality of the State of any contract or contracts or agreement or agreements executed by it, in aid of the construction of said Bridge or for the maintenance or operation thereof, the Commission may, and upon written demand by any bondholder or by the trustee for said bondholders or by the trustee under any indenture of trust or trust

agreement securing said bonds, said Commission shall institute action by mandamus or otherwise against any such department, agency or instrumentality of the State, or any officer or officers thereof or any officer or officers exercising supervision or control or having the right, power or authority to exercise the powers and perform the duties of said department, agency, or instrumentality to appropriate, withdraw or disburse any funds available to such department, agency or instrumentality for the construction, reconstruction, maintenance or operation of roads and bridges in the State, and subject to such use under any such contract or agreement, and to compel performance of any such contract or agreement, and to compel the performance of any duty relating to said Bridge or the maintenance or operation thereof. "Section 7. BONDS NOT SUBJECT TO MUNICIPAL BOND CODE. The bonds authorized hereunder shall not be subject to any limitations or provisions of the municipal bond code or any other bond laws now in force or hereafter amended, and it shall not be necessary to make publication of any resolution, notice or proceeding relating thereto. "Section 8. BONDS AND PROJECTS EXEMPT FROM TAXATION, ASSESSMENT AND FEES. The bonds and interest coupons issued under the provisions of this Act are exempted from any and all State, County, Municipal and other taxation whatsoever under the laws of the State of Alabama, and the Bridges herein authorized shall, so long as any bonds are outstanding payable from the revenues thereof, be exempted from taxation, assessment or liability for fees and charges of any nature levied by the State of Alabama, any county therein, any municipal corporation or other public body thereof. "Section 9. VALIDITY OF BONDS. In case any of the officers whose signatures or counter-signatures appear on the bonds or coupons shall cease to be such officers before delivery of such bonds, such signatures or counter-signatures shall nevertheless be valid and sufficient for all purposes the same as if they had remained in office until such delivery. Any resolution authorizing any bonds hereunder shall provide that such bonds shall contain a recital that they are issued pursuant to the provisions of this Act, which recital shall be conclusive evidence of their validity and the regularity of their issuance, notwithstanding the provisions of any other bond laws or any other law now in force or hereafter enacted or amended. Upon the passage of any resolution providing for the issuance of bonds under the provisions of this Act, the Commission may, in its discretion, cause to be published once in each of two consecutive weeks in at least two newspapers published and having a general circulation in the City of Montgomery, a notice in substantially the following form (the blanks being first properly filled in): 'The Alabama Bridge Commission (An Agency of the State of Alabama),

on the _____ day of _____, 19____, passed a resolution providing for the issuance of \$_____ of toll revenue bonds of the Commission for the purpose of financing the construction of

such revenue bonds being payable solely from the revenues of such Bridge. "Any action or proceeding questioning the validity of said resolution or said revenue bonds must be commenced within twenty days after the first publication of this notice. _____

Chairman of the Alabama Bridge Commission (An Agency of the State of Alabama)' "Any action or proceeding in any court to set aside a resolution providing for the issuance of revenue bonds under the provisions of this Act or to contest the validity of any such revenue bonds or the trust indenture, if any, to secure the same, must be commenced within twenty days after the first publication of the above mentioned notice. After expiration of such period, no right of action or defense founded upon the invalidity of the resolution or the trust indenture, if any, or of the revenue bonds, shall be asserted, nor shall the validity of such resolution, trust indenture or bonds be open to question in any court upon any ground whatever, except in an action or proceeding commenced within such period. Any such action and any action to protect or enforce any rights under the provisions of this Act shall be brought in the Circuit Court of Montgomery County, Alabama, In Equity. "Section 10. TRAFFIC RULES AND REGULATIONS. The Commission may adopt rules and regulations, not inconsistent with the provisions of the State Highway Department Act and the rules and regulations of the State Highway Department, for the control of traffic on all Bridges, to aid and insure the safe and orderly flow of traffic and shall so far as practicable notify the public of such rules and regulations by signs on such Bridges. "Section 11. POLICING OF BRIDGES. The Commission shall have the authority and it shall be its duty to provide for proper and adequate policing of any such Bridge constructed or reconstructed under the provisions of this Act, in order to insure the enforcement thereon of any rules and regulations which may be adopted by said Commission under the provisions of Section 10 of this Act and to insure the enforcement on any such Bridge of any other law relating to the use and operation of vehicles upon State Highways, and of the rules and regulations of the State Highway Department in respect thereto, and to cooperate with the State Highway Department, and any officers of the law, to the end that such Bridges be operated at all times in such manner as to carry traffic efficiently. "Such employees of the Commission as may be designated by said Commission shall have all the power of peace officers while employed on any such Bridge or while engaged in the performance of their duties while not upon any such Bridge. "Section 12. AGREE-

MENT OF STATE. The State of Alabama does pledge to and agree with the holders of any bonds issued pursuant to this Act that the State will not limit or alter the rights hereby vested in the Commission to establish and collect such charges and tolls as may be convenient or necessary to produce sufficient revenues to meet the expenses of maintenance and operation and to fulfill the terms of any agreements made with or for the benefit of the holders of the bonds, or as security for said bonds, or in any way impair the rights and remedies of bondholders, under any law or laws, or under any obligation or obligations or contract or contracts made or entered into by or for the benefit of the bondholders with the Commission or with the State Highway Department or with any other department, agency or instrumentality of the State; or under any other obligation or obligations or contract or contracts made or entered into by or for the benefit of the Commission with the State Highway Department, or with any other department, agency or instrumentality of the State; until the bonds, together with interest thereon, with interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceedings by or on behalf of the bondholders, are fully met and discharged. The State of Alabama as further security for the issuance of said bonds hereby expressly agrees that neither the State nor any county, municipality or any political sub-division or instrumentality thereof, so long as any of such bonds remain outstanding and unpaid, shall grant any privilege or franchise for the construction or reconstruction or operation or maintenance of any bridge, road, ferry or other facility which may be competitive with said Bridge, or shall construct or reconstruct or operate or maintain any such competitive road, bridge, ferry or facility; and the power and authority to grant or permit any such competitive franchise is hereby limited and restricted in accordance with the provisions of this section. "Section 13. No contract or contracts, or agreement or agreements authorized by or executed under or pursuant to the provisions of this Act shall pledge the general faith and credit of the State of Alabama, or incur an indebtedness of the State within the meaning of or contrary to the provisions of Section 213 of the Constitution of Alabama of 1901, as amended; and the State expressly reserves the right to alter, amend, repeal or change from time to time any law levying a tax to provide funds for the State Highway Department, or any other department, agency or instrumentality of the State, or by which any funds may now or hereafter be appropriated for the use of the State Highway Department or any other department, agency or instrumentality of the State for the construction, reconstruction, maintenance or operation of public roads and bridges of the State, including any Bridge constructed under this Act. "Section 14. CONSTRUCTION OF

ACT—SEVERABILITY. This Act shall be construed as cumulative authority for the purposes named herein, and as to the manner and form of issuing revenue bonds for any such purpose or purposes, and shall not be construed to repeal any existing laws with respect thereto, it being the purpose and intention of this Act to create an additional alternative method for the purposes herein named. Bonds authorized and issued in substantial conformity with the provisions of this Act shall be valid without compliance with the terms, provisions or conditions of any other act or law. As to any Bridges constructed or reconstructed under the provisions of this Act, none of the provisions of Act. No. 219, S.B. 81, approved July 10, 1935, or of Act No. 264, S.B. 326, approved August 26, 1935, or of Act No. 366, H.B. 876, approved September 7, 1935, shall apply. In the event that any provision or section of this Act shall be found or declared to be invalid or in conflict with the provisions of the Constitution of Alabama, the remainder of this Act shall nevertheless be valid and effective, each part and provision hereof being hereby expressly declared to be separate and independent of any other part or provision. "Section 15. **INCONSISTENT PROVISIONS IN OTHER ACTS SUPERSEDED.** Insofar as the provisions of this Act are inconsistent with the provisions of any other Act, general or special, the provisions of this Act shall be controlling."

Section Two. If any section, clause, provision or paragraph of this Act is declared unconstitutional or invalid, it shall not affect the remaining sections, clauses, provisions or paragraphs.

Section Two and One Half. The change heretofore made in the name of the corporation incorporated pursuant to the Act mentioned in the title and in Section 1 of this Act (which change consisted in changing the name of said corporation from "Highway Bridge Corporation, Inc., to "Alabama Bridge Commission (An Agency of the State of Alabama)"), is hereby expressly ratified.

Section Three. **INCONSISTENT PROVISIONS IN OTHER ACTS SUPERSEDED.** Insofar as the provisions of this Act are inconsistent with the provisions of any other Act, general or special, the provisions of this Act shall be controlling.

Section Three and One-Half: Provided, however, no Bridge shall be constructed under or pursuant to the provisions of this Act, unless the same may be constructed for an amount not in excess of the amount of bonds issued or authorized to be issued for the purpose of constructing such Bridge.

Section Four. This Act shall become effective immediately upon its passage and approval by the Governor.

Approved September 22, 1939.

AN ACT

To authorize the Department of Conservation to have complete management of and supervision over certain public lands and lands of public institutions. To authorize the Department of Conservation to have complete management of and supervision over all school lands as defined in Section 629 of the 1927 Alabama School Code, which lands are now vested in or which may hereafter be vested in the State of Alabama in trust for the use of schools; to empower the Director of Conservation to supervise the management and utilization of such lands; to authorize the Director of Conservation to sell timber or minerals from school lands or lease such lands; to provide for the clearing of title thereto; to provide for the disposition of revenues from such sales or leases and to further provide the method by which such revenue shall be apportioned to the proper townships; to repeal certain Sections of the Alabama School Code; to further authorize the Department of Conservation to have complete management of and supervision over all Swamp and Overflowed Lands which are now owned or which may hereafter be owned by the State of Alabama; to empower the Director of Conservation to supervise the practice of forestry thereon; to sell all merchantable timber or minerals when in his opinion same is advisable; to provide for the disposition of revenues from such sales; to have title to such land examined and cleared; to repeal certain Sections of the Code of Alabama; to further provide for the sale or exchange of school land; to further provide for the disposition of the revenue from such sales and the method by which such revenue shall be apportioned to the proper townships; to provide for the lease, exchange or sale of Swamp and Overflowed Lands and provide for the disposition of revenue from such leases or sales; to further provide for the correction of the records in the Secretary of State's office which pertain to such State Lands for the purpose of facilitating the management and supervision thereof;

Be it Enacted by the Legislature of Alabama:

Section 1. The Director of Conservation is hereby expressly authorized and empowered to have complete management of, and supervision over, lands which are known as school lands, as defined by Section 629 of the 1927 Alabama School Code; which lands are vested in, or which may hereafter be vested in, the State of Alabama in trust for the use of schools.

Section 2. The Director of Conservation is hereby empowered to have forestry practiced upon school lands, to supervise and inaugurate sound practices of forestry thereon, to put into effect and enforce State Fire and Trespass Laws on said lands and to do all things which in his opinion he deems advisable to be done for the best interests of the State concerning school lands.

Section 3. The Director of Conservation is hereby authorized to rent or lease school lands upon such terms as he deems advisable.

Section 4. The Director of Conservation is hereby authorized and empowered to present suits in law or equity in the name of the State of Alabama to clear title to school lands or for any other

purposes for the protection of such lands. The Director of Conservation shall be further empowered to have the timber on school lands cruised, the land surveyed, claims to said lands investigated, the title cleared in any legal manner which he may deem advisable and to do such other things regarding school lands which in his opinion shall be for the best interests of said lands in the supervision and management of them.

Section 5. The Department of Conservation is hereby expressly authorized and empowered to have complete management of, and supervision over, lands which are known as Swamp and Overflowed Lands, which are now or which may hereafter be owned by the State of Alabama.

Section 6. The Director of Conservation is hereby empowered to have forestry practiced upon Swamp and Overflowed Lands, to supervise and inaugurate sound practices of forestry thereon, to put into effect and enforce State Fire and Timber Trespass Laws on said lands, and to do all things which in his opinion he deems necessary to be done to promote the growth of timber thereon and to do all things which in his opinion he deems advisable to be done for the best interests of the State concerning said lands.

Section 7. The Director of Conservation is hereby empowered to sell or cause to be sold timber or minerals from school lands or Swamp and Overflowed Lands when in his opinion he deems such timber or minerals to be of merchantable quality and quantity. Notice of the sale of such timber or minerals shall be first advertised once a week for two successive weeks in a newspaper published in the county where such timber or minerals are to be sold, and said notice shall also be posted in a public place in said county; such notice shall describe the timber or minerals to be sold, the amount and quality of such timber or minerals and shall call for bids for the purchase price thereof, said notice shall further contain the date upon which said bids shall be received and the date of the sale thereof. If there are no newspapers published in the county where such sale is to be made, then said notice as hereinabove described shall be published in a newspaper of an adjoining county. After the bids are received as provided for under this section, the Director of Conservation may sell said timber or minerals to the highest bidder; but if in his opinion the highest bid received is not a fair or reasonable price for such timber or minerals, he may re-advertise the sale or he may continue to hold such timber or minerals until a future time when he may again advertise such sale.

Section 8. The revenue derived from any sale of timber or minerals from, or rental or lease of, any School Lands shall be paid by the Director of Conservation to the State Treasurer to be deposited to the credit of the proper township or townships as provided for by the Constitution and Laws of Alabama. An itemized statement

of the revenue derived from such sale or lease shall be immediately forwarded by the Director of Conservation to the State Superintendent of Education, and such statement shall show the items of sale, the amount of revenue derived therefrom and a description of the land from which the sale or lease was made. The Superintendent of Education, upon receipt of such itemized statement, shall immediately cause a report to be transmitted to the State Treasurer showing which township or townships shall receive credit for such revenue and the amount of credit which shall be made thereto.

Section 9. The revenue derived from any sale of timber or minerals from, or rental or lease of, any Swamp and Overflowed Land shall be paid by the Director of Conservation to the Trustees of the Alabama Insane Hospital.

Section 10. School land, as defined by Section 629 of the 1927 Alabama School Code, may be sold or exchanged for other lands by the Director of Conservation with the approval of the Governor and the State Superintendent of Education under the terms and conditions provided for in this Act.

Section 11. All persons purchasing said lands shall be entitled to a patent to said lands and the Governor of Alabama, if he deems advisable, when presented with the approval of the Director of Conservation and the State Superintendent of Education, shall cause patents to be issued to those purchasing said lands. Such patent shall vest a fee simple title in the Grantee named therein.

Section 12. The Director of Conservation is hereby authorized to exchange school lands for other lands of equal value, with the approval of the Governor and the State Superintendent of Education. The Director of Conservation shall have the title to the land, to be received by the State, examined, and if in his opinion said title is without defect, he shall so certify to the Governor and provided the Governor and the State Superintendent of Education approve, the Governor shall cause patents to be issued to those exchanging said lands. Such patent shall vest a fee simple title in the Grantee named therein. The title to the land received in exchange for school land shall be in the State of Alabama in trust for the use of schools and shall be classified as school land, as defined by the Alabama School Code of 1927.

Section 13. Any revenue derived from the sale of School Lands shall be paid by the Director of Conservation to the State Treasurer to be deposited to the proper township or townships as provided for by the Constitution and Laws of Alabama. A report of such sale shall be immediately forwarded by the Director of Conservation to the State Superintendent of Education and such report shall show an accurate and legal description of the lands sold. The Superintendent of Education upon receipt of such report shall immediately

cause a memorandum to be transmitted to the State Treasurer showing which township or townships shall receive credit from such sale and the amount of credit which shall be made thereto.

Section 14. Swamp and Overflowed Lands may be leased, exchanged or sold by the Director of Conservation with the approval of the Trustees of the Alabama Insane Hospital.

Section 15. All persons purchasing said lands shall be entitled to a patent to said lands and the Governor of Alabama, when presented with the approval of the Director of Conservation and Trustees of the Alabama Insane Hospital, shall cause patents to be issued to those purchasing said lands. Such patent shall vest a fee simple title in the grantee named therein.

Section 16. All persons claiming title to any Swamp and Overflowed Lands in this State under any alleged purchase, or through any chain of title, may submit their claims to the Director of Conservation together with such evidence of purchase or claim, whereupon the Director of Conservation shall have such claim examined and investigated as he may see fit, and if it be found that the State has parted with its title to such lands in a legal and effective way, the Director of Conservation shall so determine and shall certify same to the Governor and the Trustees of the Alabama Insane Hospital; but if the Director of Conservation shall determine that the State has not parted with its title to such lands in a legal or effective way, but that equity and justice shall be better served by a settlement with the claimant, he is hereby empowered to settle and adjust such title upon such terms as he may consider just and proper. Upon such adjustment he shall certify such adjustment to the Governor and the Trustees of the Alabama Insane Hospital, and the Governor shall cause patents to be issued to the claimant, under the seal of the State, to the lands covered by such certificate, and such patent shall vest a fee simple title in the grantee named in such patent.

Section 17. Any revenue derived from the sale or adjustment of any Swamp and Overflowed Lands as hereinabove provided, shall be paid by the Director of Conservation to the Trustees of the Alabama Insane Hospital.

Section 18. For the purpose of facilitating the management and supervision of school lands and Swamp and Overflowed Lands, upon the submission to the Secretary of State of legal and effective proof of any error or mistake, either of omission or commission, in any of the records in his office which pertain to such lands and which said proof is deemed by the Secretary of State to be adequate and, sufficient, it shall be mandatory upon him to correct such errors or mistakes in his records and make a record of what any such correction consists.

Section 19. The Secretary of State shall maintain a file in his office where he shall keep copies of the proof submitted for the

correction of errors or mistakes as provided for in this Act.

Section 20. After the correction of any error or mistake in any record which pertains to such lands, the Secretary of State, in any subsequent certification of a corrected record, shall certify the corrected record, which record, so corrected, shall have the same weight and authority as any other certification by the Secretary of State, and such corrected record shall be classified as an official record and shall be entitled to the privileges provided for in Section 7681 of the 1923 Code of Alabama. The Secretary of State shall show in his certification that the record has been corrected and such correction shall presumptively be properly made.

Section 21. Sections 630, 631, 632, 633, 634, 635, 636, 640, 641, 642, 643, 644, 646, 648, 649, 651 and 653 of the 1927 School Code and Sections 1486, 1487 and 1488 of the 1923 Code of Alabama are hereby expressly repealed.

Section 22. If any provision or part of this Act shall be held unconstitutional, invalid or for any reason ineffective, it shall not affect or invalidate any of the remaining provisions of this Act.

Section 23. All laws or parts of laws, whether general, local or special in conflict with any of the provisions of this Act are hereby expressly repealed.

Section 24. This Act shall become effective immediately upon its approval by the Governor.

Approved September 22, 1939.

No. 583)

(H. 967—Sadler & Wallace

AN ACT

To make an appropriation for the publication of the Alabama Historical Quarterly.

Be it Enacted by the Legislature of Alabama:

Section 1. There is hereby appropriated a sum not to exceed One Thousand (\$1,000.00) Dollars annually for the publication of one thousand copies each quarter of the Alabama Historical Quarterly. The said Quarterly shall be edited by the Director of the Alabama State Department of Archives and History and shall be supplied gratis to public officials, public and high school libraries and upon call by any responsible person in the interest of propagating facts about the history of the State.

Section 2. The sum appropriated in this act shall be paid out of any monies in the treasury not otherwise appropriated, subject to the Budget and Financial control act and contingent upon the approval of the Governor.

Approved September 19, 1939.

No. 585)

(H.J.R. 118—Rules Committee

HOUSE JOINT RESOLUTION

BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES, the Senate concurring, that during the recess of the Legislature between the Forty-Seventh Legislative day and the Forty-Eighth Legislative day, the Clerk of the House of Representatives and the Secretary of the Senate shall, during such recess, keep their offices open for the convenience of the Members of the Legislature and the public and furnish such information to the Members of the Legislature and the public that may be desired.

BE IT FURTHER RESOLVED That during such recess of the Legislature the Clerk of the House of Representatives and the Secretary of the Senate shall check and complete the Journals and other records of their respective Houses in order that the same may be brought up to date when the Legislature re-convenes for the Forty-Eighth Legislative day.

BE IT FURTHER RESOLVED That the Clerk of the House of Representatives and the Secretary of the Senate shall perform such duties for their respective Houses at any time the same may sit as a Committee of the Whole during such recess as may be required of them.

BE IT FURTHER RESOLVED That in order to enable the Clerk of the House of Representatives and the Secretary of the Senate to perform the duties hereby imposed upon them during such recess of the Legislature: 1. That for a period of four weeks during such recess the Clerk of the House of Representatives, the Assistant Clerk, the Second Assistant Clerk, the Reading Clerk, the Chief Clerk to the Clerk of the House, and twelve assistants to be named by the Clerk of the House; the Secretary of the Senate, the Assistant Secretary, the Second Assistant Secretary, the Chief Clerk, the Reading Clerk, and twelve assistants to be named by the Secretary of the Senate, shall be retained and shall receive the same per diem as now provided by law.

Section 2. That at such times as the respective Houses of the Legislature may sit as a Committee of the Whole during such recess, the subordinate officers and employees of the respective houses, whether elected or appointed, as now provided by law, or so many thereof as may be necessary in the opinion of the Speaker of the House and the President Pro-Tem of the Senate shall be retained and shall receive the same per diem.

Section 3. That during the period of such recess, except at such times as they may be otherwise retained and paid pursuant to the provisions of this Resolution the Clerk of the House of Representatives, the Assistant Clerk of the House of Representatives and one assistant to be appointed by such Clerk, and the Secretary

of the Senate, the Reading Clerk of the Senate, and one assistant to be appointed by said Secretary shall be retained and receive the same per diem as now provided by law.

Approved September 19, 1939.

No. 465)

(H. 924—Waldrop

AN ACT

To provide for the submission of a referendum to the qualified electors of all counties in the State of Alabama that had, according to the last Federal Census, a population of not less than 17,775 and not more than 18,425 inhabitants, at the time of the next general election, to determine the sentiments of the qualified electors of said counties on the question of whether or not the Superintendent of Education in said counties shall be elected by the qualified electors thereof.

Be it Enacted by the Legislature of Alabama:

Section 1. That a referendum be submitted to the qualified electors of all counties in the State of Alabama that had, according to the last Federal Census, a population of not less than 17,775 and not more than 18,425 inhabitants, at the time of the next general election, to determine the sentiments of the qualified electors of said counties on the question of whether or not the Superintendent of Education of said counties shall be elected by the qualified electors thereof. On the ballots to be used in such elections shall be printed the following: "Do you favor the election of the Superintendent of Education, County Solicitor and County Treasurer of this county by the qualified electors of this county? "Yes (———) No (———)"

Section 2. That the officials for such election shall be appointed and the votes cast in such election shall be canvassed, tabulated and the result thereof announced and such election shall be held in all things in accordance with the laws governing general elections.

Section 3. That all laws and parts of laws, general, special or local, in conflict with the provisions of this act are hereby repealed.

Section 4. That this act shall become effective upon its passage and approval by the Governor or its otherwise becoming a law.

This Act became a law under Section 125 of the Constitution, June 28, 1940.

No. 586)

(S.J.R. 52—McCall

SENATE JOINT RESOLUTION

With regard to the procuring of medical kits for the House and Senate.

BE IT RESOLVED by the Senate, the House concurring, that the Secretary of the Senate and the Clerk of the House be instructed to procure proper medical kits to become the property of the House and Senate to be available and employed in cases of emergency, and that such medical kits be kept at all times when the Legislature is in session at the desks of the Secretary of the Senate and the Clerk of the House respectively.

Approved June 28, 1940.

No. 587)

(S.J.R. 53—McCall

SENATE JOINT RESOLUTION

Pertaining to the rights of the States and the rights of the Federal Government to submerged lands and tidelands bordering upon their respective territories.

WHEREAS, Upon the formation of the United States of America, the States, as independent sovereignties, reserved to themselves all the right, title and interest in and to the submerged lands and tidelands bordering upon their respective territories and, with the expenditure of public funds, have devoted such lands to harbor developments and other State purposes, or through grants or arrangements made with their municipalities and public agencies and with their citizens have devoted said lands to other public and private uses, and such sovereign rights of the States have never heretofore been questioned; and

WHEREAS, Legislation has been introduced in the Congress of the United States, particularly Senate Joint Resolution No. 24, introduced by the Honorable United States Senator, Gerald P. Nye, wherein it is asserted that the Federal Government possesses the title to or holds an interest in submerged lands and tidelands bordering upon the various States of the Union, and it is proposed to direct the Attorney General of the United States to institute legal actions in the courts to litigate such asserted titles or interests; and

WHEREAS, Any such litigation will becloud the rights and title of the respective States, prejudice their progress in developing such lands for the State and local uses, both public and private, endanger existing investments and impair future financing of local projects on such lands, and the enactment of such legislation is, in the opinion of the Legislature, undesirable and contrary to the public interests,

THEREFORE, BE IT RESOLVED by the Senate, the House of Representatives concurring, that the Legislature of the State of Alabama respectfully urges and petitions the Congress of the United States

to refuse enactment of either Senate Joint Resolution No. 24 or any other bill or resolution which may similarly seek to establish the asserted claim of the Federal Government to any title or interest in such submerged lands or tidelands of the State of Alabama, other than such lands which may have been heretofore expressly granted it by this State or under its authority; and

BE IT FURTHER RESOLVED, that the Secretary of the Senate be and he hereby is directed to transmit copies of this resolution to Senator Alva B. Adams, Chairman Senate Public Lands Committee and to Alabama's Senators and Representatives in the Congress of the United States.

Adopted by the Senate March 2, 1939.

Concurred in by the House of Representatives March 14, 1939.

No. 588)

(S.J.R. 58—Rules Committee

SENATE JOINT RESOLUTION

In regard to the return of an old historic Flag of the State from the State of Iowa.

WHEREAS, the Legislature of Alabama has heretofore adopted a resolution providing for a joint session of the Legislature of Alabama on return of old historic Flag by the State of Iowa to be accepted by the Governor of the State of Alabama at a joint session of the Legislature; therefore,

BE IT RESOLVED by the Senate, the House concurring, that the Legislature of Alabama meet in joint session Thursday, March 9, 1939, at twelve o'clock Noon for the purpose of receiving the Flag from Iowa representatives.

Adopted by the Senate March 7, 1939.

Concurred in by the House of Representatives March 7, 1939.

No. 589)

(S.J.R. 74—Poole

SENATE JOINT RESOLUTION

In regard to a bill prohibiting the issuance of premiums by manufacturers.

WHEREAS, there seems to be a wide-spread impression over the State that there will be a bill introduced at this session of the Legislature to prohibit manufacturers from issuing premiums on the manufacture of their goods:

NOW, THEREFORE, be it resolved by the Senate, the House concurring, that this Legislature is unalterably opposed to the passage

of a bill which will prohibit the issuance of such premiums by manufacturers.

Adopted by the Senate July 20, 1939.

Concurred in by the House of Representatives July 25, 1939.

No. 590)

(H. 392—Wallace, Megginson,
Hare, Barchard

AN ACT

To impose an excise tax upon the sale, distribution, storing, or withdrawal from storage within this State of certain motor fuels when used to operate motor vehicles upon the highways; to define the term motor fuel as used herein; to fix the amount of such tax and to provide for the collection thereof; to provide penalties for the violation of this act; to provide for the expense of administering the provisions hereof; to provide for the disposition of the proceeds of such tax; to authorize the State Department of Revenue to adopt and promulgate rules and regulations with respect to the administration and enforcement of the provisions of this act; to provide for a modification or repeal of laws or portions thereof to the extent of any conflict with the provisions of this Act; to fix the effective date of this act; and to generally provide for the enforcement of the provisions of this act and rules and regulations adopted pursuant thereto.

Be it Enacted by the Legislature of Alabama:

Section 1. As used in this act, the term "motor fuel" shall include "diesel oil," "tractor fuel," "gas oil," "distillate" or "liquified gas" when sold, distributed, stored or withdrawn from storage in this State for use in the operation of any motor vehicle upon the public highways of this State. The word "person" shall include individuals, persons, corporations, co-partnerships, companies, counties, municipal corporations, school boards or agencies of the State or other agencies, associations, incorporated or otherwise, singular or plural. The term "distributor" as used in this act shall include any person who engages in the sale or distribution of motor fuel as herein defined at wholesale or retail within this State. The term "storer" as herein used shall include any person who manufactures or receives motor fuel as herein defined, stores same in any manner, and withdraws same.

Section 2. Every distributor or storer as herein defined of motor fuel as herein defined for the operation of motor vehicles upon the highways of this State shall pay, except as herein otherwise provided, an excise tax of six cents (6c) per gallon upon the selling, distributing, storing or withdrawing from storage, in this State, of any such motor fuel; provided, however, that where the excise tax herein levied shall have been paid by one distributor or storer, such payment shall be sufficient, the intention being that the tax shall be paid but once.

Section 3. The excise tax imposed by Section 2 hereof shall apply to persons defined in this act storing motor fuels as herein defined or distributing same for use in the operation of motor vehicles on the highways of this State or allowing same to be withdrawn from storage for sale for use in the operation of motor vehicles on such highways; provided that distributors of motor fuels as herein defined paying the tax herein levied may pay the same as hereinafter required on the basis of their sales and storers shall pay the tax computed on the basis of their withdrawals from storage provided such sales or withdrawals from storage are for the purpose of operating motor vehicles over the highways of this State. Withdrawals for sale in or delivery into another State and sales to the United States shall not constitute taxable transactions under the provisions of this Act nor shall transfer of motor fuels as herein defined from one place of storage to another be considered withdrawal from storage as the term is herein used.

Section 4. After the effective date of this act, it shall be unlawful for any person to use in the operation of a motor vehicle over the highways of this State any motor fuel as herein defined upon which the tax levied hereby has not been paid or the payment thereof assumed by a distributor or storer or user licensed by the Department of Revenue. Violation of this Section shall constitute a misdemeanor and any person convicted thereunder shall be fined not less than \$25.00 nor more than \$100.00.

Section 5. On or before the twentieth day of each calendar month after this act shall have taken effect, every person upon whom this excise tax is levied shall render to the State Department of Revenue on forms prescribed by the Commissioner of Revenue a true and correct statement of total sales and withdrawals of motor fuels made by him or them during the next preceding calendar month and shall furnish the said State Department of Revenue such other information as such State Department of Revenue may demand or require upon blanks to be formulated and furnished by said Commissioner and at the time of making such monthly report shall pay to the State Department of Revenue an amount of money equal to the excise tax as herein levied, provided such sales or withdrawals are made for use in propelling motor vehicles over the highways of this State.

Section 6. The monthly statement as herein required to be made by the distributor or storer shall be sworn to before some officer authorized to administer oaths and any fraudulent statement sworn to shall constitute perjury and upon conviction thereof the person so convicted shall be punished as provided by Section 5161 of the Code of 1923.

Section 7. All distributors or storers shall keep for not less than two years within the State of Alabama at some certain place or office such books, documents or other papers as will clearly show

the amount of sales, distributions, or other withdrawals made in this State of motor fuels as herein defined.

Section 8. If any distributor or storer as herein defined shall fail to make the reports or any of them to the State Department of Revenue as herein required, or shall fail to keep the records as herein required, such distributors or storers shall be guilty of a misdemeanor and upon conviction thereof shall be fined not less than Fifty Dollars (\$50.00), nor more than Three Hundred Dollars (\$300.00) for such offense. Each month of such failure shall constitute a separate offense.

Section 9. In the administration of this act the State Department of Revenue shall permit the sale of motor fuels as herein defined without liability on the part of the distributor for the tax herein levied when such sales are made to a licensed user, distributor or storer who has obtained a permit from the Commissioner of Revenue to make such purchases less the said tax and assume full liability therefor.

Section 10. Subject to rules and regulations promulgated by the State Department of Revenue, it shall issue to applicants therefor permits to purchase, store, or use motor fuels as herein defined for purposes other than the operation of motor vehicles on the highways of this State without liability for the tax levied in Section 2 hereof, and any distributor selling or distributing motor fuels as herein defined to the holder of such a permit shall not be liable for the excise tax herein levied upon such sale or distribution to such holder, it being the intent of this act that the said tax shall be imposed only where motor fuels as herein defined are used in the operation of motor vehicles on the highways of this State. An applicant for a permit under this Section 10 shall satisfy the Department of Revenue that such motor fuels will not be used in the operation of motor vehicles on the highways of this State.

Section 11. If any person covered by the provisions of this act shall fail to make the monthly returns prescribed herein and pay the excise tax hereby laid on or before the 20th day of the calendar month following the sale, distribution or withdrawal, the State Department of Revenue shall make return for such delinquent upon such information as it may reasonably obtain, assess the excise tax thereon, and add a penalty for failure to make such return and pay the tax herein laid of twenty-five percent (25%) of the tax due to the amount as assessed by the Commissioner of Revenue. If, in the opinion of the State Department of Revenue, a good and sufficient cause is shown for such delinquency, the Commissioner of Revenue may remit the penalty, otherwise the tax and penalty shall be paid.

Section 12. The forms for all statements and reports required under the provisions of this act shall be prescribed and furnished by the State Department of Revenue and the cost of the enforce-

ment of this act shall be paid out of the funds derived from the excise tax herein prescribed upon a warrant of the State Comptroller upon a voucher of the Commissioner of Revenue and approved by the Governor.

Section 13. The proceeds of the excise tax herein imposed when collected, less the cost of administering this act, shall be covered into the State Treasury to the credit of the State Highway Department for use exclusively in the construction, repair, maintenance and operation of public roads and bridges of this State, including any toll road or toll bridge constructed by said Department or maintained and operated by or under the supervision of said Department.

Section 14. Before any person engages in the sale or withdrawal of motor fuels as herein defined for the operation of motor vehicles on the highways of this State, notice shall be given by such person to the State Department of Revenue and bond posted for such sum as the Commissioner of Revenue may fix securing the payment of the tax hereby levied, said bond to guarantee the prompt payment of all tax accruing hereunder and to include such other reasonable conditions as the Commissioner of Revenue may require to the end that evasions of the tax imposed hereby may be prevented; provided, however, that this Section shall not be construed to require a separate bond by persons bonded as provided in Act Number 55 of the Legislature of Alabama, approved October 5, 1932.

Section 15. Within five (5) days after the State Department of Revenue shall adjudge distributor or storer as herein defined delinquent, such delinquent shall be notified by the Department of Revenue by registered mail to appear before the Commissioner of Revenue and show cause, if any, why execution should not issue against the bond and property of such delinquent to satisfy the amount of the tax and penalties due the State. If no showing is made within ten (10) days after notice is mailed, or if such showing is not satisfactory to the State Department of Revenue, execution may be issued by the State Department of Revenue for collection of such tax and penalties directed to any Sheriff of the State of Alabama, who shall proceed under such execution in the manner now provided by law under the executions issued from courts of record, and shall make return of such executions to the State Department of Revenue within thirty days of the issuance thereof. The tax and all penalties herein provided for shall be held as a debt payable to the State of Alabama by the person against whom the same shall be charged and all such tax and penalties shall be a lien against all the property in this State of the person charged therewith superior to all other liens except tax liens to the State antecedent in date.

Section 16. In the enforcement of collection of taxes and penalties imposed by the terms of this Act, the Sheriff to whom an execution is issued by the State Department of Revenue shall first levy upon all the property of the person against whom the tax is levied, and then make formal demand upon the bonding company for payment to the amount of the bond. If such sum as may be collected from the bonding company is insufficient, then in that event the Sheriff shall proceed to sell the property so levied upon, and apply the proceeds first to the payment of the balance due on the excise taxes and cost involved in making such levy and sale, the residue to be paid over to the person against whom the execution is issued.

Section 17. The State Department of Revenue is hereby authorized to prepare a claim against any distributor or storer adjudged delinquent in payment of the excise taxes herein levied and have such claim recorded in the office of the Judge of Probate of the County in which such person is doing business or in the County where such person maintains his or their main place of business. Said claim shall be in the form of a decree by the State Department of Revenue and shall set forth the amount of tax due by the person adjudged delinquent and the penalty imposed thereon. When such claim shall have been paid, the State Department of Revenue shall write or cause to be written on such record the word "satisfied."

Section 18. Any distributor, storer or user who shall violate any of the provisions of this act may be restrained and the proper prosecution instituted in the name of the State of Alabama by its Attorney General or under his direction by the Circuit Solicitor of the State, or any attorney employed by the State Department of Revenue with the approval of the Governor and Attorney General from distributing, using or withdrawing from storage any motor fuel as herein defined, the sale or withdrawal of which is taxable under this act, until such person shall have complied with the provisions of this act.

Section 19. The State Department of Revenue is hereby authorized to adopt, promulgate and enforce reasonable rules and regulations relating to the administration and enforcement of the provisions of this Act, not in conflict with the specific provisions hereof. Administrative constructions, interpretations, or rulings heretofore made by the State Tax Commission or the State Department of Revenue, and acted upon in good faith, to the effect that "fuel oil," "crude oil," "diesel oil," "tractor fuel" or "distillate," sold, distributed, stored, or withdrawn from storage, for lighting, heating, or industrial purposes, or for use in the operation of farm tractors or farm machinery upon the farm, and not upon the highways, were not subject to the provisions of the excise tax levied under the provisions of Chapter 4 of Article XIII of An Act en-

titled "An Act To provide for the General Revenue of the State of Alabama," approved July 10, 1935, by reason of the ascertainment or determination by such Commission or Department of the fact that said above mentioned products or fuels were at such time, and in such instances, commonly used for lighting, heating or industrial purposes, within the meaning of said Act, or were not at such time commonly used in internal combustion engines as a substitute for gasoline within the meaning of said Act, are hereby ratified and confirmed.

Section 20. That the provisions of this Act are severable and if any section or sections, paragraph or paragraphs, sentence or sentences, clause or clauses, phrase or phrases, word or words of this Act shall be held to be unconstitutional by the valid judgment or decree of any court of competent jurisdiction, the same shall not affect or impair any of the remaining provisions, sections, paragraphs, sentences, clauses, phrases, and, or words of this Act. It is hereby declared to be the legislative intent that this Act and each section, paragraph, sentence, clause, phrase or word thereof would have been enacted had such unconstitutional section or sections, paragraph or paragraphs, sentence or sentences, clause or clauses, phrase or phrases, and word or words not been included herein.

Section 21. This act shall become effective upon the first day of August, 1940.

Section 22. All laws or parts of laws inconsistent or in conflict with the provisions of this Act are, to the extent of any such inconsistency or conflict, hereby repealed, it being the intention of the Legislature that to the extent of any such inconsistency or conflict, the provisions of this act shall be controlling. The tax herein levied shall not be construed as in lieu of or in anywise affecting the provisions of Chapter 4 of Article XIII of the above mentioned Act, except to the extent that such Act may be construed to levy a tax upon motor fuel, as herein defined and hereby taxed, in which case and to such extent, this Act shall be controlling.

Approved June 27, 1940.

No. 591)

(H. 486—Robertson of Cullman

AN ACT

To provide for the negotiability of security receipts and equipment trust certificates, as defined by this Act.

Be it Enacted by the Legislature of Alabama:

Section 1. Definitions. For the purpose of this act: (1) The term "security receipt" means any writing in and by which the signer sets forth that the person named therein or the bearer is en-

titled to receive a specified principal amount, par value or number of bonds, notes, debentures, shares of stock, voting trust certificates for shares of stock, scrip or other security or securities of any kind or character, identified or described therein, absolutely or when, as and if received by the signer or upon any other contingency stated or referred to therein. (2) The term "equipment trust certificate" means any writing in and by which the signer sets forth that the person named therein or the bearer is entitled to an interest or a share of a specified principal amount or par value in money in a trust under an identified trust indenture pursuant to the terms of which the title to rolling stock or equipment for use by or on the lines or routes of common carriers or to vessels or other marine equipment, is held by the trustees for the benefit of all the holders of the interests or shares. For the purposes of this act, the character of any such security receipt or equipment trust certificate is not affected by the inclusion therein of other provisions not limiting the right of transfer and the negotiable quality thereof as in this act provided.

Section 2. Negotiation. (1) The title to any security receipt or equipment trust certificate which by its terms entitles the bearer to the benefits thereof, may be transferred by the delivery thereof by any person in the possession of the same howsoever such possession may have been acquired. (2) The title to any security receipt or equipment trust certificate which, by its terms, entitles a person named therein to the benefits thereof and which provides, in substance, that title thereto is transferable with the same effect as in the case of a negotiable instrument, may be transferred by delivery thereof by any person in possession of the same, howsoever such possession may have been acquired if endorsed in blank, or if it is endorsed to a specified person and the delivery is made to such person. (3) A person to whom title may be transferred, as in this section provided, and who shall have taken any such instrument from any other person for present or antecedent value and without notice of prior defenses or equities or claims of ownership enforceable against such other person, shall have absolute title thereto free of any defenses enforceable against or claims of ownership of the signer or any prior holder. Any holder of any such security receipt or equipment trust certificate, unless the same has been endorsed to a specified person other than the holder and has not been endorsed in blank by such specified person, shall be deemed *prima facie* to have title thereto as aforesaid; but when it is shown that the title of any person who has negotiated such instrument is defective, the burden is on the holder to prove that he or some person under whom he claims acquired the title as a holder for value and without notice as aforesaid. (4) The provisions of this section shall not be applicable to the transfer of any security receipt or equipment trust certificate when it is shown that such transfer was made

after the date fixed therein for the performance by the signer of his obligations thereunder or, if no date is fixed, after the expiration of a reasonable time after the happening of the contingency upon which the signer became obligated to perform.

Section 3. Application of Act. This act shall not be construed to limit or impair the negotiability or quasi negotiability by agreement or otherwise of any instrument whether or not defined herein. The provisions of this act shall apply only in respect of instruments issued after the date of the taking effect thereof.

Section 4. Should any section or clause of this act be held unconstitutional or invalid, same shall not invalidate any other section or clause of this act which is not in itself invalid.

Section 5. All laws or parts of laws in conflict with this act be and the same are hereby repealed.

Section 6. This act shall take effect and be operative immediately upon its approval by the Governor or upon it becoming a law.

Approved June 28, 1940.

No. 593)

(H. 976—Smyer

AN ACT

To exempt moneys, credits, securities and other intangible personal property within the state and not employed in any business within the state from death taxation where intangible property is legally or equitably owned by a nonresident domiciled in another state wherein such intangible property is subjected to death taxation.

Be it Enacted by the Legislature of Alabama:

Section 1. Moneys, credits, securities and other intangible personal property within the state not employed in carrying on any business therein by the owner shall be deemed to be located at the domicile of the owner for purposes of death taxation and if held in trust shall not be deemed to be located in this state for purposes of death taxation because of the trustee being domiciled in this state, provided that if no other state subjects such property held in trust to death taxation, it may be deemed property having a taxable situs within this state for purposes of death taxation.

Section 2. This Act shall be effective only as to the property of residents of states which may now or hereafter grant to property of residents of Alabama a similar exemption from death taxation. In the event, however, that such reciprocal provision contained in this section of this Act shall hereafter be declared unconstitutional or invalid, either in part or in whole, then Section 1 hereof shall continue in full force and effect, it being the legislative intent to exempt the property described in Section 1 hereof from death tax-

tion notwithstanding any subsequent invalidation of the reciprocal provision herein contained.

Section 3. If any other provision or part of this Act shall be declared unconstitutional or invalid, such declaration shall not affect the validity of the remainder hereof.

Section 4. All laws or parts of laws in conflict with the provisions of this Act shall be and the same are hereby repealed.

Approved June 28, 1940.

No. 595)

(S.J.R. 160—Booth

SENATE JOINT RESOLUTION

Requesting the Governor to appoint a committee to review the progress of the experience rating program adopted under the Unemployment Compensation Law.

BE IT RESOLVED by the Senate, the House of Representatives concurring, that the Governor be, and he hereby is, requested to appoint a committee of five persons to review from time to time the progress of the experience rating program adopted under the Unemployment Compensation Law, to make a study of the benefit formula to determine whether it meets the objectives of the law, and to suggest, if the committee finds them needed, revisions and modifications in the law, to be submitted to the Governor, for presentation to the next session of the Legislature.

Approved June 28, 1940.

No. 596)

(H. 478—Miller

AN ACT

To amend Schedule 16 of Article XIII, Chapter 1 of an Act entitled "An Act to provide for the General Revenue of the State of Alabama," approved July 10th, 1935.

Be it Enacted by the Legislature of Alabama:

Section 1. That Schedule 16 of Article XIII, Chapter 1 of an Act entitled "An Act to provide for the General Revenue of the State of Alabama," approved July 10th, 1935, be and the same is hereby amended to read as follows: Schedule 16. Each person selling motor vehicle accessories, including automobile radios, and/or motor vehicle parts, and/or motor vehicle batteries, and/or tires, shall pay the following annual license: In cities of:

Over 100,000 population	\$40.00
25,000 to 100,000 population	30.00

5,000 to 25,000 population.....	20.00	
2,000 to 5,000 population.....	10.00	
All other places, whether incorporated or not.....		5.00

Provided regularly licensed filling stations or garages are not required to pay the above accessories license if their stock of accessories at any time does not exceed the wholesale value of Seventy-five dollars (\$75.00).

Approved June 28, 1940.

No. 597)

(H. 479—Miller

AN ACT

To amend Schedule 20 of Article XIII, Chapter 1 of an Act entitled, "An Act to provide for the General Revenue of the State of Alabama," approved July 10th, 1935.

Be it Enacted by the Legislature of Alabama:

Section 1. That Schedule 20 of Article XIII, Chapter 1 of an Act entitled "An Act to provide for the General Revenue of the State of Alabama," approved July 10th, 1935, be and the same is hereby amended to read as follows: Schedule 20. Each Battery Shop for the repairing, recharging and selling batteries in cities and towns of:

Over 60,000	\$20.00	
16,000 to 60,000.....	15.00	
5,000 to 15,000.....	10.00	
All other places whether incorporated or not		5.00

Provided that this license shall not apply to businesses not rendering complete battery service.

Approved June 28, 1940.

No. 599)

(H. 922—Hodo

AN ACT

To make an appropriation out of the State Treasury to the Department of Industrial Relations for the purpose of further bearing the expenses of the Department of Industrial Relations in administering the Workmen's Compensation Act of Alabama and the program of factory and industrial plant inspection for the safety of employees and the prevention of accidents.

Be it Enacted by the Legislature of Alabama:

Section 1. That there be and is hereby appropriated to the Department of Industrial Relations out of any funds in the State Treas-

ury not otherwise appropriated for each of the fiscal years ending, respectively, September 30, 1940, September 30, 1941, September 30, 1942, and September 30, 1943, the sum of Fifteen Thousand and no/100 (\$15,000) Dollars, which shall be used for the purpose of further bearing the expenses of the Department of Industrial Relations in administering the Workmen's Compensation Act of Alabama, and the program of factory and industrial plant inspection for the safety of employees and the prevention of accidents, it being one of the purposes of this program to reduce compensable accidents in Alabama, thereby reducing Workmen's Compensation Insurance rates in this State.

Section 2. That this act shall become effective immediately upon its passage and approval by the Governor, or its otherwise becoming a law.

Approved June 28, 1940.

No. 604)

(H. 627—Scott

AN ACT

To amend Schedule 67 of Article XIII, Chapter I of an Act entitled, "An Act to provide for the General Revenue of the State of Alabama," approved July 10, 1935.

Be it Enacted by the Legislature of Alabama:

Section 1. That Schedule 67 of Article XIII, Chapter I of an Act entitled, "An Act to provide for the General Revenue of the State of Alabama," approved July 10, 1935, be and the same is hereby amended to read as follows: Schedule 67. Each person operating for profit a Gasoline Filling Station or pump in cities or towns, or within three miles thereof, shall, on October 1, 1940, pay the following privilege tax: In cities of 100,000 inhabitants and over, where only one pump or filler is used \$36.00, For each additional pump \$27.00, In cities or towns of 40,000 inhabitants and less than 100,000 inhabitants, where only one pump or filler is used \$27.00, And for each additional pump \$18.00, In cities or towns of 12,000 inhabitants and less than 40,000, where only one pump or filler is used \$23.00, And for each additional pump \$13.00, In cities or towns of 5,000 inhabitants and less than 12,000, where only one pump or filler is used \$18.00, And for each additional pump \$9.00, In incorporated towns of 1,000 inhabitants and less than 5,000, where only one pump or filler is used \$9.00, And for each additional pump \$6.50, In incorporated towns of less than 1,000 inhabitants \$4.50, And for each additional pump \$2.50, In all other places whether incorporated or not \$2.50, And for each additional pump \$2.50. Each person operating for profit a Gasoline Filling Station or pump in cities or towns, or within three miles thereof, shall, on October

1, 1941, pay the following privilege tax: In cities or 100,000 inhabitants and over, where only one pump or filler is used \$32.00, And for each additional pump \$24.00, In cities or towns of 40,000 inhabitants and less than 100,000 inhabitants, where only one pump or filler is used \$24.00, And for each additional pump \$16.00, In cities or towns of 12,000 inhabitants and less than 40,000 inhabitants, where only one pump or filler is used \$20.00, And for each additional pump \$11.00, In cities or towns of 5,000 inhabitants and less than 12,000, where only one pump or filler is used \$16.00, And for each additional pump \$8.00, In Incorporated towns of 1,000 inhabitants and less than 5,000, where only one pump or filler is used \$8.00, And for each additional pump \$6.00, In incorporated towns of less than 1,000 inhabitants \$4.00, And for each additional pump \$2.50, In all other places whether incorporated or not \$2.50, And for each additional pump \$2.50. Each person operating for profit a Gasoline Filling Station or pump in cities or towns, or within three miles thereof, shall, on October 1, 1942, and thereafter, pay the following privilege tax: In cities of 100,000 inhabitants and over, where only one pump or filler is used \$28.00, And for each additional pump \$21.00, In cities or towns of 40,000 inhabitants and less than 100,000 inhabitants, where only one pump or filler is used \$21.00, And for each additional pump \$14.00, In cities or towns of 12,000 inhabitants and less than 40,000, where only one pump or filler is used \$18.00, And for each additional pump \$10.00, In cities or towns of 5,000 inhabitants and less than 12,000, where only one pump or filler is used \$14.00, And for each additional pump \$7.00, In incorporated towns of 1,000 inhabitants and less than 5,000, where only one pump or filler is used \$7.00, And for each additional pump \$5.00, In incorporated towns of less than 1,000 inhabitants \$3.50, And for each additional pump \$2.50. In all other places whether incorporated or not \$2.50, And for each additional pump \$2.50.

Section 2. All laws or parts of laws, local or general, in conflict herewith are expressly repealed.

Section 3. This Act shall become effective upon its enactment into law.

Approved July 5, 1940.

No. 605)

(H. 644—Sherrer and Ball

AN ACT

To protect the users of liquified petroleum gases and to provide regulations for the sale of said gases for domestic and industrial use and to provide for posting of bonds with the Superintendent of Insurance and to provide specifications for installation of tanks for the use of said gases to

consumers and to provide for penalties for violation of this Act, and to regulate the use and installation of said gases generally.

Be it Enacted by the Legislature of Alabama:

Section I: That any person or persons, firms or corporations, municipalities or associations, manufacturers or jobbers, who sell or offer for sale or install containers, plant assembly system or equipment for storage, transportation, handling, or utilization of liquified petroleum gases for the purpose of providing gas for industrial, commercial and domestic use shall post a \$5,000.00 surety bond with the Superintendent of Insurance as State Fire Marshal Ex-Officio, guaranteeing that each such installation shall be designed, constructed, equipped and installed in conformity to such rules, regulations, and specifications as may be prescribed and promulgated by the Superintendent of Insurance as State Fire Marshal Ex-Officio for the safety of the public and the users of such gases.

Section II: Any of the parties mentioned in Section I of this act, before engaging in the business of selling liquified petroleum gases, shall make application to the Superintendent of Insurance as State Fire Marshal Ex-Officio on forms provided by the Superintendent of Insurance and upon the filing of such application, the Superintendent of Insurance acting as State Fire Marshal Ex-Officio and upon the filing and approval of the bond as provided in Section I, the Superintendent of Insurance acting as Ex-Officio Fire Marshal shall issue the applicant a permit to engage in the business of selling liquified petroleum gases and selling and installing equipment for the use of these gases. The failure of any person as defined in this Act to post the required bond, shall disqualify such person or persons from selling gas as herein defined in this Act and from installing equipment for the use of same and should any person as herein defined violate any of the rules and regulations promulgated by the Superintendent of Insurance as State Fire Marshal Ex-Officio or violate any of the provisions of this Act, it shall be the duty of the Superintendent of Insurance acting as State Fire Marshal Ex-Officio to revoke the permit issued by him and in addition to revoking the permit the person, firm, corporation, association or such other person as herein defined shall be guilty of a misdemeanor and upon conviction shall not be fined more than \$500.00 and may in the discretion of the court trying the case, be sentenced to hard labor for not more than six months.

Section III: That containers and pertinent equipment subject to the regulation and bearing the stamp of approval of the Interstate Commerce Commission and containers which are owned and in use by the Government of the United States shall be exempt from the provisions of this Act.

Section IV: It shall be the duty of the person or persons, firm, corporation distributor of liquified gases or employee of such to report to the State Fire Marshal Ex-Officio the name and address of the owner or user of any installation, container, equipment, plant assembly and or system which is being used in violation of the regulations provided in this Act.

Section V: If any section, clause or paragraph of this Act or the application of such provision to any person, body or circumstance shall be held invalid or unconstitutional the remainder of this Act or the application of such section, clause or provision to persons, bodies or circumstances other than those as to which it is held invalid shall not be effected by such holding of invalidity or such part so held invalid or unconstitutional.

Section VI: This act shall become effective thirty days after its passage and approval by the Governor or it otherwise becoming a law.

Approved July 6, 1940.

No. 606)

(H. 648—McCord

AN ACT

To provide for the appointment of a Chief Clerk by the Circuit Solicitor in all judicial circuits that now is or may hereafter be composed of only three counties, one of which such counties is now or may hereafter be divided into two jurisdictions or judicial divisions with the holding of the Circuit Court in each jurisdiction or judicial division of such county so divided and said Circuit having only two Judges, to fix the term of office and to prescribe the duties of said Chief Clerk and to require said Chief Clerk, in addition to his work as Chief Clerk, to do stenographic and secretarial work and investigations for said Solicitor, to fix the compensation of said Chief Clerk, to provide that said compensation shall be paid out of the General Funds of the Counties composing said judicial circuits and how the same shall be paid, and further provide that the board of revenue or other governing body of the county paying the larger portion of the salary may suspend from time to time the operation of this act.

Be it Enacted by the Legislature of Alabama:

Section 1. That in all judicial circuits that now is or may hereafter be composed of only three counties, one of which such counties is now or may hereafter be divided into two jurisdictions or judicial divisions with the holding of the Circuit Court in each jurisdiction or judicial division of such county so divided and said Circuit having only two Judges, immediately upon the approval of this Act, there shall be appointed by the Circuit Solicitor of such Circuits a Chief Clerk to do all clerical work required of him by said Solicitor in connection with the operation of said Solicitor's office and to keep all official records in connection with said office

and to report cases in the inferior courts and preliminary proceedings and applications for bail and habeas corpus proceedings in all courts wherever directed so to do by the Circuit Solicitor of such Circuits and it shall be the duty of said Chief Clerk to report all of the proceedings of the Grand Juries of such circuits and perform such stenographic duties in connection with the office of the Circuit Solicitor under the direction of the Circuit Solicitor as the said office may require and further it shall be the said Chief Clerk's duty to investigate any and all matters directed by the said Solicitor to be investigated and to make proper reports of such investigations to said Solicitor.

Section 2. That said Chief Clerk shall be paid out of the County Treasury of the counties composing such circuits in equal monthly installments an annual salary of Fifteen Hundred (\$1500.00) Dollars on warrants drawn on said Circuit Solicitor. The sum paid on such salary by counties composing such circuits, which now have, or may hereafter have a population of 60,000, or more, according to the last or any subsequent Federal census, shall be not to exceed 80% of such salary, and by such counties which now have or may hereafter have less than 60,000 population according to the last or any subsequent Federal census, shall be not to exceed 10% of such salary.

Section 3. The term of office of said Chief Clerk shall be at the pleasure of the Circuit Solicitor of said such Circuits, and the said Chief Clerk may be removed at any time by the said Circuit Solicitor at the pleasure of the said Circuit Solicitor.

Section 4. The board of revenue or other governing body of the county paying the larger portion of the salary named in this act may from time to time suspend the operation of this act in such circuit and during such periods of suspension this act shall not be operative or effective, and the term of office provided for in Section 3 of this act shall at all times be subject to the provisions of this section.

Section 5. This Act shall become effective immediately upon its passage and approval and all laws and parts of law in conflict herewith are hereby repealed.

Approved July 10, 1940.

No. 607)

(H. 728—Wallace

AN ACT

To regulate the sale of motor fuel and lubricating oils at retail for use and consumption in motor vehicles so as to require the posting of retail prices and prohibiting the selling of such products at prices other than those posted, and to fix penalties for the violations thereof.

Be it Enacted by the Legislature of Alabama:

Section 1. That it shall be unlawful for any person, firm or corporation to sell or offer for sale at retail, for use or consumption in

any motor vehicle or to deliver into any motor vehicle for actual or apparent use therein, any product whatsoever for use in supplying, creating or generating motive power to such motor vehicle, or lubricating oil for such motor vehicle, unless such person, firm or corporation shall conspicuously and plainly post on the pump or stand from which delivery is made a sign or placard, stating the price or prices of each such product, amount of tax to be stated separately, and so that such prices can be read and easily distinguished by brand or other designation in legible words, letters and figures of uniform size and dimensions, not less than one inch in height, which said sign or placard shall be so located and placed that it may easily be seen and read by purchasers or prospective purchasers of such product or oil.

Section 2. Be It Further Enacted, That it shall be unlawful for any person, firm or corporation to sell or offer for sale at retail, for use or consumption in any motor vehicle, or to deliver into any motor vehicle, for actual or apparent use therein, any product whatsoever for use in supplying, creating or generating motive power to such motor vehicle, or lubricating oil for such motor vehicle, at any price or prices, except the exact price or prices contained on the sign or placard required by this Act, or to offer, deliver, grant, allow, give or promise, any actual prospective, contingent, immediate or future benefits, concessions, discounts, refunds, premiums, or gratuities of any kind or nature whatsoever, which in any degree, manner or extent, shall be calculated or intended to effect or accomplish a sale of such product for other than said posted price or prices.

Section 3. Be It Further Enacted, That the term "motor vehicle" as used in this Act shall include all vehicles propelled by any power other than muscular power.

Section 4. Be It Further Enacted, That a violation of this Act shall constitute a misdemeanor punishable upon conviction by a fine not exceeding \$50.00 or by imprisonment not exceeding six months, or both, each day or part of a day shall constitute a separate offense.

Section 5. Be It Further Enacted, That justice of the peace courts and all other courts of like jurisdiction shall have original and concurrent jurisdiction along with the circuit courts of the State in the enforcement of this Act.

Section 6. Be It Further Enacted, That this Act shall take effect thirty days from and after its enactment into law.

Approved July 2, 1940.

No. 608)

(H. 818—Tucker

AN ACT

To amend Section 5, House Bill 255 approved October 5th, 1932, entitled "An Act to regulate the transportation delivery, storage or sale of gasoline and other motor fuels in this State etc." General Acts Extra Session of the Legislature of 1932.

Be it Enacted by the Legislature of Alabama:

Section 1. That Section 5, of House Bill 255, approved October 5th, 1932, entitled "An Act to regulate the transportation, delivery, storage or sale of gasoline and other motor fuels in this State etc." be and the same is hereby amended to read as follows: Section 5. BOND REQUIRED OF DISTRIBUTORS (a) If the application shall be approved by the Director of the State Department of Revenue, the applicant shall file with the State Department of Revenue a bond in the approximate sum of twice the average monthly excise tax estimated by the Director of the State Department of Revenue which will be due by the applicant, provided that in no case shall the bond be less than One Thousand Dollars or more than Twenty-five Thousand Dollars. The bond shall be in such form and amount as may be approved by the Director of the State Department of Revenue, shall be executed by a surety company licensed and duly authorized to do business in Alabama, shall be payable to the State of Alabama, and be conditioned upon the prompt filing of true reports, and the payment by the applicant to the State Department of Revenue of any and all excise taxes accrued or accruing on the sale, distribution or withdrawal from storage of gasoline which may now or may hereafter be levied or imposed by the State of Alabama, together with all penalties and interest thereon, and generally upon faithful compliance with the provisions of this Act. In lieu of a guaranty bond, the applicant may post Alabama State coupon bonds, or United States Government coupon bonds, under such terms, rules and regulations as may be approved by the Director of the State Department of Revenue. (b) In the event that liability upon any bond filed under the provisions of this Act shall be discharged or reduced, whether by judgment rendered, payment made, or otherwise, or if in the opinion of the Director of the State Department of Revenue any surety on the bond theretofore given shall become unsatisfactory or unacceptable, then the Director of the State Department of Revenue may require the filing of a new or additional bond conditioned as hereinabove provided, and in the event of the failure of any distributor, within ten days after written notice to it by the Director of the State Department of Revenue to file such new or additional bond, the Director of the State Department of Revenue shall cancel the license issued to such person. (c) If upon a hearing had by the Director of the State Department

of Revenue after five days' written notice to any distributor, the Director of the State Department of Revenue shall decide that the amount of any existing bond filed by any distributor is insufficient, the Director of the State Department of Revenue may order such distributor to file, within ten days after written notice by the Director of the State Department of Revenue to such distributor, a new or additional bond in such amount as the Director of the State Department of Revenue upon said hearing may find reasonably necessary to insure payment of all amounts due or to become due to the State of Alabama, conditioned as hereinabove provided, and if such new or additional bond is not filed within ten days after such notice from the Director of the State Department of Revenue, the Director of the State Department of Revenue may cancel the license already issued to such distributor. (d) The Director of the State Department of Revenue may reduce the amount of any bond upon written application of any distributor if satisfied that a bond in a reduced amount will insure payment of all amounts due or to become due to the State of Alabama. The total amount of bond or bonds to be given by any distributor under this section shall in no event be less than One-Thousand Dollars, nor more than Twenty-five Thousand Dollars. Provided however, that the Director of the State Department of Revenue may require such additional bond as may be deemed necessary to insure the prompt payment of all excise taxes on the sale or withdrawal of gasoline, due or to become due the State by the distributor; but no demand for additional bond above Twenty-five Thousand Dollars shall be made without first determining from a study of the distributor's financial statement which shall be supplied upon request of the Director of the State Department of Revenue, that such additional bond is necessary. (e) Any surety on any bond furnished by any distributor, as above provided, shall be released and discharged from any and all liability to the State of Alabama accruing on such bond after the expiration of sixty days from the date upon which surety shall have filed with the State Department of Revenue written request to be released and discharged, provided, however, that such request shall not operate to relieve, release or discharge such surety from any liability already accrued, or which shall accrue before the expiration of said sixty day period. The Director of the State Department of Revenue shall promptly upon receipt of notice of such request notify the distributor who furnished such bond of the request of the surety on said bond, and unless such distributor shall, on or before the expiration of such sixty day period, file with the State Department of Revenue a new bond in the amount and form herein before in this section provided, the Director of the State Department of Revenue shall forthwith cancel the license of said distributor.

Section 2. This Act shall become effective immediately on its passage and on approval by the Governor.

Approved July 5, 1940.

No. 610)

(H. 938—McGowin

AN ACT

To amend Sections 9426 and 9427 of the Code of Alabama.

Be it Enacted by the Legislature of Alabama:

Section 1. Sections 9426 and 9427 of the Code of Alabama be and the same are hereby amended to read as follows: "Section 9426. SERVICE ON DESIGNATED AGENT OF FOREIGN CORPORATIONS: PROOF OF AGENCY.—When a foreign corporation has filed an instrument in writing designating one or more agents in this State as provided by this Code, process, pleadings or papers issuing against such foreign corporation, other than in equity, may be served upon any agent, so designated; and the certificate of the Secretary of State or of the Auditor, as the case may be, showing such designation, is evidence of the fact of such agency. In the event such foreign corporation withdraws from this State and ceases to transact business herein, it shall continue to keep and maintain such agent within this State upon whom service of process, pleadings or papers may be made, until the statutes of limitations shall have run against the bringing of action against said corporation. If the agent designated by such foreign corporation shall die, resign, remove from the State, or his authority shall cease from any cause, and no other agent shall be designated by such foreign corporation, or said corporation shall revoke or fail to maintain in effect the authority of its designated agent after its withdrawal from this State and prior to the time when the statutes of limitations would have run against the causes of action so accruing against it, then in that event such corporation shall by a duly executed instrument filed in the office of the Secretary of State, constitute and appoint the Secretary of State its true and lawful attorney, upon whom all such process, pleadings or papers may be served, and therein shall agree that all such process, pleadings or papers which may be served upon its said attorney, shall be of the same force and validity as if served upon the said corporation, and the authority thereof shall continue in force irrevocably until the statutes of limitations shall have run against the bringing of the action against said corporation, and the same shall be held as due and sufficient service upon such corporation. In the event such corporation shall fail to so constitute and appoint the Secretary of State its true and lawful attorney, upon whom all such process, pleadings or papers may be served, and no other such agent shall have been so designated by such corporation for such purpose, then such corporation shall be deemed to have consented to the Secretary of State being its true and lawful attorney, upon whom all such process, pleadings or papers may be served, until the

statutes of limitations shall have run against the bringing of the action against said corporation, and the same shall be held as due and sufficient service upon such corporation. The Secretary of State must immediately transmit by registered mail, return receipt requested, to such foreign corporation at its home office, a copy of such process, pleadings or papers served upon him, retaining the copy of such process, pleadings or papers served upon him along with the return receipt as part of the permanent records of his office. "Section 9427. SERVICE OF PROCESS ON CORPORATION NOT QUALIFIED TO DO BUSINESS IN THE STATE.

—Wherever a foreign corporation has carried on or transacted business in this State without qualifying to do business herein as is provided by the constitution and statutes of this State and there is no other agent and process, pleadings or papers cannot be served on such foreign corporation as is provided in the preceding section, then any legal process, pleadings or papers, other than in equity, concerning causes of action arising out of or as consequence of acts or business done in this State, may be served upon any agent or servant of such foreign corporation who has made contracts for the corporation or did the act which constituted the doing of business in this State; in the event process, pleadings or papers, cannot be served on either of the above named, then such corporation shall by a duly executed instrument filed in the office of the Secretary of State, constitute and appoint the Secretary of State its true and lawful attorney, upon whom all such process, pleadings or papers may be served, and therein shall agree that all such process, pleadings or papers which may be served upon its said attorney, shall be of the same force and validity as if served upon the said corporation, and the authority thereof shall continue in force irrevocably until the statutes of limitations shall have run against the bringing of the action against said corporation, and the same shall be held as due and sufficient service upon such corporation. In the event such corporation shall fail to so constitute and appoint the Secretary of State its true and lawful attorney, upon whom all such process, pleadings or papers may be served, and no other such agent shall have been so designated by such corporation for such purpose, then such corporation shall be deemed to have consented to the Secretary of State being its true and lawful attorney, upon whom all such process, pleadings or papers may be served, until the statutes of limitations shall have run against the bringing of the action against said corporation, and the same shall be held as due and sufficient service upon such corporation. The Secretary of State must immediately transmit by registered mail, return receipt requested, to such foreign corporation at its home office, a copy of such process, pleadings or papers served upon him, retaining the copy of such process, pleadings or papers served upon him along with the return receipt as part of the permanent records of

his office. This section, however, shall not be exclusive of any other mode of service of process, pleadings or papers in the cases herein provided for."

Section 2. All laws, or parts of laws inconsistent with or in conflict with the provisions of this Act are, to the extent of such inconsistency or conflict, hereby expressly repealed.

Section 3. This Act shall become effective upon its enactment into law.

Approved July 6, 1940.

No. 611)

(H. 998—Snyder

AN ACT

To Amend Sub-section (b) of Schedule 158.14 of Section 348 of an Act entitled An Act to Provide for the General Revenue of the State of Alabama, approved July 10, 1935.

Be it Enacted by the Legislature of the State of Alabama:

That Sub-section (b) of Schedule 158.14 of Section 348, of an act entitled "An Act to Provide for the General Revenue of the State of Alabama," approved July 10, 1935, be, and the same is hereby amended so as to read as follows: "(b) That no motor vehicle license tags shall be transferred from one motor vehicle to another motor vehicle, nor shall any motor vehicle be operated with motor vehicle license tags which were originally purchased or taken out for use on or for the operation of another motor vehicle, provided that, where a license tag has been procured for a taxi cab which taxi cab is afterwards, during the same tax year, destroyed, or junked or sold by the owner thereof, such owner may, by applying to the judge of probate or other licensing officer of the county where such license tag was issued, procure a transfer of such tag to a motor vehicle of the same class to be substituted as a taxi cab for the one so destroyed, or junked or sold, and such licensing authority shall by endorsement on the license receipt or by separate paper, note such transfer, and shall also report the same to the Department of Revenue, and shall receive a fee of fifty (50) cents for so doing, such fee to be paid by the owner of such taxi cab."

Approved July 5, 1940.

No. 612)

(H. 1017—Sadler

AN ACT

To Amend an Act entitled "An Act to provide for a free scholarship in certain schools of the State of Alabama, to the value of one Hundred dollars each year, upon the donation to the State by the United Daughters of

the Confederacy of the State of Alabama of the sum of twelve hundred and fifty dollars for the securing of each such scholarship," Approved February 24, 1915."

Be it Enacted by the Legislature of Alabama:

That Section 1 of said Act be amended to read as follows: SECTION 1. That whenever the United Daughters of the Confederacy of the State of Alabama shall donate to the State of Alabama, and actually pay in cash to the treasurer of said State, a sum of money amounting to twelve hundred and fifty dollars, there shall be considered as established a free scholarship of the value of one hundred dollars per year in board and such fees or other charges as that amount would cover or include over and above board, for the benefit of the student receiving the benefit of the same, or appointed to such scholarship, at any of the following institutions of learning, to-wit: The University, Tuscaloosa; Alabama Polytechnic Institute, Auburn; Alabama College, Montevallo; any of the group A Normal Schools, Florence, Jacksonville, Livingston, and Troy, that have, or may have a dormitory, that such scholarship shall be, and is hereby established for each sum of twelve hundred and fifty dollars so donated to the State.

That Section 2 of said Act be amended to read as follows: SECTION 2. That at the time such sum or sums of money amounting to twelve hundred and fifty dollars shall be donated to the State, and paid over to the State treasurer, the said United Daughters of the Confederacy shall designate in writing signed by its president and countersigned by its chairman of scholarship, and filed with the State comptroller, the particular institutions of learning, among those enumerated in Section 1 of this act, in which the scholarship is desired. Thereupon it shall be the duty of the State Comptroller to issue a warrant drawn upon the State treasurer, in due form, and deliver the same to the treasurer of such institution of learning for the said sum of twelve hundred and fifty dollars, or for such several sums of twelve hundred and fifty dollars which shall be donated in this manner to the State which warrant or warrants the treasurer shall pay on presentation. Such sum or several sums of twelve hundred and fifty dollars shall be received by such treasurer of such institution of learning and added to the sum held by the board or boards legally administering the same for the support of such institutions.

That Section 3 of said act be amended to read as follows: SECTION 3. Any person, male or female, otherwise entitled to admission as a student or pupil in such institution of learning, and such only, and who presents to the proper authorities of same, a certificate signed by the president and countersigned by the chairman of scholarship committee of such United Daughters of the Confederacy of Alabama, granting to him or her a scholarship,

under the terms of this act, shall be entitled to be admitted at such institution as entitled to the benefits of this act. And when so admitted, he or she shall be given credit on the books of such institution for the sum of one hundred dollars, to be applied to the end and purpose of defraying his or her board and such fees or other charges as that amount would cover over and above board, for the session during which or for which he or she applies for admission.

To amend said Act by adding thereto Section 4 as follows: SECTION 4. Provided, that if a scholarship is held either three or four years, that the last year of tenure shall be a loan scholarship, to be repaid to the United Daughters of the Confederacy of Alabama, the loan bearing no interest the first year, but bearing interest at the rate of five per cent per annum each year thereafter it remains unpaid. Also provided that in the event any institution should prefer to discontinue the annual one hundred dollar scholarship, said institution shall be privileged to do so upon the return of the endowment fund or funds to the Alabama Division of the United Daughters of the Confederacy, which fund or funds, when so returned, to be reinvested with some other State Educational Institution.

To amend said Act by adding thereto Section 5 to read as follows: SECTION 5. This act shall go into effect immediately upon its passage and approval by the Governor.

Approved July 6, 1940.

No. 613)

(H. J. R. 139—White

HOUSE JOINT RESOLUTION

WHEREAS, all the continents of the world except the Americas are torn by war; and

WHEREAS, the totalitarian nations of the world, acting at the whim of their ruthless dictators, have almost completely overrun all the democratic nations of the world, except those in the Americas; and

WHEREAS, the might of the military machines of the totalitarian nations have shocked the peoples of all the democratic powers of the world; and

WHEREAS, the continued and ever increasing successes of the military machines of totalitarian dictators present a most serious threat to all the democratic nations of the world, even those in the Americas; and

WHEREAS, the President of the United States and the Congress of the United States have recently recognized these conditions and are rapidly taking sweeping steps to build up the defenses of the United States and to preserve the peace of the Americas.

NOW, THEREFORE, BE IT RESOLVED by the House of Representatives, the Senate concurring, that the Legislature of Alabama does wholeheartedly approve of this program of the President of the United States and the Congress of the United States; and be it further resolved that we urge a continuation of this program and pledge the wholehearted cooperation of the people of the State of Alabama to the President of the United States and the Congress of the United States in all of their efforts to Prepare The Americas For Peace; and

BE IT FURTHER RESOLVED that copies of this resolution be sent to the President of the United States, its Secretaries of State, War and Navy, and the United States Senators and members of Congress from the State of Alabama.

Approved July 6, 1940.

No. 614)

(S. 72—Shaver

AN ACT

To limit the rentals of housing accommodations in projects of housing authorities and to make such projects available only to persons of low income.

Be it Enacted by the Legislature of Alabama:

Section 1. That it is hereby declared to be the policy of this State that each housing authority shall manage and operate its housing projects in an efficient manner so as to enable it to fix the rentals for dwelling accommodations at the lowest possible rates consistent with its providing decent, safe, and sanitary dwelling accommodations, and that no housing authority shall construct or operate any such project for profit, or as a source of revenue of the city or town. To this end a housing authority shall fix the rentals for dwellings in its projects at no higher rates than it shall find to be necessary in order to produce revenues which (together with all other available moneys, revenues, income and receipts of such authority from whatever sources derived) will be sufficient (a) to pay, as the same become due, the principal and interest on the bonds or other obligations of such authority; (b) to meet the cost of, and to provide for, maintaining and operating the projects (including the cost of any insurance) and the administrative expenses of such authority; and to meet the cost of discharging all lawful obligations assumed by or imposed upon, the Authority or its property; and (c) to create (during not less than the six years immediately succeeding its issuance of any bonds or other obligations) a reserve sufficient to meet the largest principal and interest payments which will be due on such bonds or other obligations in any one year thereafter and to maintain such reserve.

In the operation or management of housing projects a housing authority shall at all times observe the following duties with respect to rentals and tenant selection: (a) it may rent or lease the dwelling accommodations therein only to persons who lack the amount of income which is necessary (as determined by the housing authority undertaking the housing project) to enable them, without financial assistance, to live in decent, safe, and sanitary dwellings, without overcrowding; (b) it may rent or lease the dwelling accommodations only at rentals within the financial reach of such persons; (c) it may rent or lease to a tenant dwelling accommodations consisting of the number of rooms (but no greater number) which it deems necessary to provide safe and sanitary accommodations of the proposed occupants thereof, without overcrowding; and (d) it shall not accept any person as a tenant in any housing project if the person or persons who would occupy the dwelling accommodations have an annual net income in excess of five times the annual rental of the quarters to be furnished such person or persons, except that in the case of families with three or more minor dependents, such ratio shall not exceed six to one; in computing the rental for this purpose of selecting tenants, there shall be included in the rental the average annual cost (as determined by the housing authority) to occupants of heat, water, electricity, gas, cooking range and other necessary services or facilities, whether or not the charge for such services and facilities is in fact included in the rental. Nothing contained in this Act shall be construed as limiting the power of an authority to vest in an obligee the right, in the event of a default by the housing authority, to take possession of a housing project or cause the appointment of a receiver thereof, free from all the restrictions imposed by this Act with respect to rental rates and tenant selection.

Section 2. That this Act shall be effective immediately upon its passage and approval.

Approved July 10, 1940.

No. 615)

(S. 73—Shaver

AN ACT

To declare valid and legal the creation and establishment of housing authorities, all bonds, notes, contracts, agreements, obligations and undertakings of such housing authorities, and all proceedings, acts and things heretofore undertaken, performed or done with reference thereto.

Be it Enacted by the Legislature of Alabama:

Section 1. That the creation and establishment of housing authorities pursuant to the provisions of the Housing Authorities Law, approved February 8, 1935, as amended by an Act approved

September 13, 1935, together with all proceedings, acts and things heretofore undertaken, performed or done with reference thereto, are hereby validated, ratified, confirmed, approved and declared legal in all respects, notwithstanding any defect or irregularity therein or any want of statutory authority.

Section 2: That all contracts, agreements, obligations and undertakings of housing authorities heretofore entered into relating to financing or aiding in the development, construction, maintenance or operation of any housing project or projects or to obtaining aid therefor from the United States Housing Authority, including (without limiting the generality of the foregoing) loan and annual contributions contracts and leases with the United States Housing Authority, agreements with municipalities or other public bodies (including agreements which are pledged or authorized to be pledged for the protection of the holders of any notes or bonds issued by housing authorities or which are otherwise made a part of the contracts with such holders of notes or bonds) relating to cooperation and contributions in aid of housing projects, payments (if any) in lieu of taxes, furnishing of municipal services and facilities, and the elimination of unsafe and insanitary dwellings, and contracts for the construction of housing projects, together with all proceedings, acts and things heretofore undertaken, performed or done with reference thereto, are hereby validated, ratified, confirmed, approved and declared legal in all respects, notwithstanding any defect or irregularity therein or any want of statutory authority.

Section 3. That all proceedings, acts and things heretofore undertaken, performed or done in or for the authorization, issuance, sale, execution and delivery of notes, and bonds by housing authorities for the purpose of financing or aiding in the development or construction of a housing project or projects, and all notes and bonds heretofore issued by housing authorities are hereby validated, ratified, confirmed, approved and declared legal in all respects, notwithstanding any defect or irregularity therein or any want of statutory authority.

Section 4. That this Act shall be effective immediately upon its passage and approval.

Approved July 10, 1940.

No. 616)

(S. 74—Shaver

AN ACT

To amend the title and Section 3 of, and to repeal Section 4 of, and to add Section 7 to an Act entitled "An Act to authorize any cities located within the boundaries of housing authorities, the State, its subdivisions and agencies to cooperate with housing authorities and the United States of

America by rendering services, conveying or leasing property and providing for streets and roads and to authorize corporate agencies of the United States and corporations receiving aid from the United States to exercise the power of eminent domain to acquire property for housing projects," approved February 7, 1935.

Be it Enacted by the Legislature of Alabama:

Section 1. That the title of an Act entitled "An Act to authorize any cities located within the boundaries of housing authorities, the State, its subdivisions and agencies to cooperate with housing authorities and the United States of America by rendering services, conveying or leasing property and providing for streets and roads: and to authorize corporate agencies of the United States to exercise the power of eminent domain to acquire property for housing projects," approved February 7, 1935, be and the same is hereby amended so as to read as follows: An Act to authorize cities, towns, counties, and other public bodies and subdivisions and agencies of the State to aid housing projects of housing authorities or of the United States of America by conveying or dedicating property, by furnishing parks, playgrounds, streets, roads, water, sewer or drainage facilities, by exercising certain other powers and by making agreements relating to such aid; and to authorize cities, towns, villages, counties and other public bodies and subdivisions and agencies of the State to purchase bonds of housing authorities and to make agreements respecting the exercise of their powers relating to the remedying or elimination of unfit dwellings.

Section 2. That Section 3 of said Act, approved February 7, 1935, be and the same is hereby amended to read as follows: Section 3. That for the purpose of aiding and cooperating in the planning, undertaking, construction or operation by housing authorities of housing projects located within the area in which it is authorized to act, any city, county, municipal corporation, district or other subdivision or public body or agency of the State may, upon such terms, with or without consideration, as it may determine: (a) Dedicate, release, sell, convey or lease any of its interest in any property, or grant easements, licenses or any other rights or privileges therein to a housing authority or the United States of America or any agency thereof; (b) Cause parks, playgrounds, recreational, community, educational, water, sewer, or drainage facilities, or any other works which it is otherwise empowered to undertake, to be furnished adjacent to or in connection with housing projects; (c) Furnish, dedicate, close, pave, install, grade, regrade, plan or replan streets, roads, roadways, alleys, sidewalks or other places which it is otherwise empowered to undertake; (d) Plan or replan, zone or rezone; any city also may change its map; (e) Cause services to be furnished to the housing authority of the character which it is otherwise empowered to furnish; (f) Enter into agreements

with respect to the exercise by it of its powers relating to the repair, elimination or closing of unsafe, insanitary or unfit dwellings; (h) Do any and all things, necessary or convenient to aid and cooperate in its planning, undertaking, construction or operation of such housing projects; (i) Incur the entire expense of any public improvements made by it in exercising the powers granted in this Act; and (j) Enter into agreements (which may extend over any period, notwithstanding any provision or rule of law to the contrary), with a housing authority respecting action to be taken pursuant to any of the powers granted by this Act. Any law or statute to the contrary notwithstanding, any sale, conveyance, lease or agreement provided for in this section may be made by a city, county, municipal corporation, district or other subdivision or public body or agency of the State without appraisal, public notice, advertisement or public bidding.

Section 3. That Section 4 of said Act, approved February 7, 1935, be and the same is hereby repealed.

Section 4. That said Act, approved February 7, 1935, be and the same is hereby amended by adding Section 7 thereto, as follows: Section 7. The exercise by any city, county, municipal corporation, district or other subdivision or public body or agency of the State of the powers herein granted may be authorized by resolution of its governing body adopted by a majority of the members of such governing body present at a meeting of such governing body, which resolution may be adopted at the meeting at which such resolution is introduced. Such a resolution or resolutions shall take effect immediately and need not be laid over or published or posted.

Section 5. That, notwithstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that if any provisions of this Act, or the application thereof to any person or circumstances, is held invalid, the remainder of the Act and the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

Section 6. That, insofar as the provisions of this Act are inconsistent with the provisions of any other law, the provisions of this Act shall be controlling.

Approved July 10, 1940.

No. 617)

(S. 98—Shaver)

AN ACT

To provide for financial assistance by cities and towns to housing authorities created by them and for reimbursements by housing authorities to such cities and towns.

Be it Enacted by the Legislature of Alabama:

Section 1. That any city or town creating a housing authority shall have the power from time to time to lend or donate money to such authority or to agree to take such action. A housing authority, when it has money available therefor, shall make reimbursements for all such loans made to it.

Section 2. That, notwithstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that if any provision of this Act, or the application thereof to any person or circumstances, is held invalid, the remainder of the Act and the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

Section 3. That, insofar as the provisions of this Act are inconsistent with the provisions of any other law, the provisions of this Act shall be controlling.

Section 4. That this Act shall be effective immediately upon its passage and approval.

Approved July 10, 1940.

No. 618)

(S. 302—Tucker)

AN ACT

To appropriate moneys for the retirement of the public debt of the State of Alabama, including moneys for sinking funds on outstanding highway bonds, for a sinking fund for the retirement of Class A. Renewal, Class C Renewal and Funding Renewal Bonds, and for the principal on Harbor Improvement Bonds as they severally mature, for each of the fiscal years ending, respectively, September 30, 1940, September 30, 1941, September 30, 1942, and September 30, 1943.

Be it Enacted by the Legislature of Alabama:

Section 1. That there is hereby appropriated out of the State Treasury for each of the fiscal years ending, respectively, September 30, 1940, September 30, 1941, September 30, 1942, and September 30, 1943, so much of the gasoline taxes and motor vehicle licenses collected as may be necessary to provide sinking funds on outstanding highway bonds.

Section 2. That there is hereby appropriated out of the State Treasury for each of the fiscal years ending, respectively, Septem-

ber 30, 1940, September 30, 1941, September 30, 1942, and September 30, 1943, for a sinking fund for the retirement of Class A Renewal, Class C Renewal and Funding Renewal Bonds \$50,000.00, and in addition thereto \$50,000.00, conditional upon the approval of the Governor.

Section 3. That there is hereby appropriated out of the State Treasury for each of the fiscal years ending, respectively, September 30, 1940, September 30, 1941, September 30, 1942 and September 30, 1943, a sufficient sum to pay the principal on outstanding Harbor Improvement Bonds as they severally mature, that is not provided for by the receipts of the Department of State Docks and Terminals.

Section 4. That the appropriations herein made are the same as, and not in addition to, the appropriations made for these purposes in the General Appropriation Act covering the period from October 1, 1939 to September 30, 1943; it being the purpose and intention of this act to make the appropriations herein provided for, or any of them, only in the event the like appropriations, or any of them, made in the General Appropriation Act hereinabove referred to for said purposes be for any reason held invalid, unconstitutional or ineffective, in which event the provisions of this act shall become immediately effective.

Section 5. That all laws and parts of laws, general, special, or local, in conflict with the provisions of this Act are hereby expressly repealed.

Approved July 10, 1940.

No. 619)

(S. 358—Stakely

AN ACT

To Regulate and Prohibit the Unlawful Wearing of Uniforms of Foreign Governments, in the State of Alabama, and Prescribing a Penalty for the Violation of This Act.

Be it Enacted by the Legislature of Alabama:

Section 1. (a) It shall be unlawful for any person to appear in any public place or in the public view attired in any uniform similar to that worn by the military, semi-military, naval, police, storm troop or other official or semi-official forces of any foreign state, nation or government, or attired in any distinctive part or parts of such a uniform and to assemble with other persons similarly attired in any camp, drill ground or other place for the purpose of engaging in military drill or training or other military purposes. (b) It shall be unlawful for any person to appear in any public place or in the public view attired in the uniform or wearing the distinctive garment of any association of persons of what-

soever nature or form which engages in, adopts, or imitates the drill formations, salutes or other methods or practices or the symbols of any foreign military, semi-military, naval, police, storm troop or similar foreign organization, and, so attired to assemble with other persons similarly attired in any camp, drill ground or other place for the purpose of engaging in military drill or training or other military practices. (c) It shall be unlawful for the proprietor, manager or keeper of a public hall, public garden, theatre or any other place of public meeting, resort or amusement to permit therein any assemblage of persons attired as prohibited in this section. (d) This section shall not apply to the officers or members of the military, semi-military, naval, police or other official or semi-official forces of any foreign state, nation or government lawfully within the State of Alabama, any veterans' organization chartered by Act of Congress, the Boy Scouts of America, any student of any school or academy recognized by the Board of Education of the State of Alabama nor to the members of the cast of any stage or motion picture production characterizing the officials of a foreign state, nation or government; provided, however, that in any prosecution hereunder it shall be presumed that a person (1) wearing the uniform of a foreign state, nation or government or of any of its official or semi-official forces or (2) attired in any distinctive part or parts of such a uniform, was not at the time of the alleged violation of this section a member of any of the organizations excepted herein.

Section 2. Any person who knowingly violates any of the foregoing provisions shall, upon conviction, be subject to a fine of not more than one thousand dollars, or imprisonment for not more than one year, or to both such fine and imprisonment.

Section 3. This Act shall be in full force and effect with the signature of the Governor.

Approved July 10, 1940.

No. 621)

(S. 451—Poole

AN ACT

To amend Section 3 of an Act entitled "An Act to regulate the business of selling used motor vehicles by dealers not residing in or having a permanent place of business in the State of Alabama, and by resident dealers purchasing, handling and selling used vehicles, used or acquired from non-resident dealers; to require the registration of all used motor vehicles brought into the State of Alabama for the purpose of sale, with Probate Judges in several counties; to require all such dealers to execute and deliver to such purchaser of such used vehicles, a bond indemnifying the purchaser against failure of title, breach of warranty, or fraudulent misrepresentation; to define the terms 'dealer' and 'vendor', and to pro-

vide penalties for the violation of the provisions of this Act," approved March 2, 1937.

Be it Enacted by the Legislature of Alabama:

Section 1. That Section 3 of an Act entitled "An Act to regulate the business of selling used motor vehicles by dealers not residing in or having a permanent place of business in the State of Alabama, and by resident dealers purchasing, handling and selling used vehicles, used or acquired from non-resident dealers; to require the registration of all used motor vehicles brought into the State of Alabama for the purpose of sale, with Probate Judges in several counties; to require all such dealers to execute and deliver to such purchaser of such used vehicles, a bond indemnifying the purchaser against failure of title, breach of warranty, or fraudulent misrepresentation; to define the terms 'dealer' and 'vendor', and to provide penalties for the violation of the provisions of this Act," approved March 2, 1937, be and the same is hereby amended to read as follows: Section 3. That any vendor or dealer in used or second-hand motor vehicles who shall violate or fail to observe any of the provisions of this Act, shall be deemed guilty of a misdemeanor, and upon conviction for such violation, shall be punished by a fine of not less than \$100.00, nor more than \$500.00, and or by imprisonment for no less than 30 days, nor more than six months. The Director of Public Safety and his subordinate officers are hereby authorized and required to enforce, and are charged with the duty of enforcing, the provisions of this Act.

Section 2. That all laws and parts of laws, general, special or local, in conflict with the provisions of this act are hereby repealed.

Section 3. That this Act shall become effective on September 30, 1939.

Approved July 5, 1940.

No. 622)

(S. 492—McCall and Simpson

AN ACT

To amend Section 1 of an Act entitled "An Act to provide for the use of voting machines for registering, recording and computing the votes in all elections in any county, municipality, or other political subdivision of the State: To provide for referendum elections for voting for or against the use of voting machines in counties, cities or other political subdivisions of the State: to provide by local act for permitting the governing body of any county, municipality or other political subdivision to install voting machines without first submitting the question to the vote of the qualified electors: to provide for the method of procurement and installation of voting machines by rental, lease or purchase, and the terms thereof: to provide for the discontinuance of the use of voting machines: to provide for the mechanical qualifications, construction and requirements of voting machines; to provide for adequate guarantees by manu-

facturers, vendors and lessors of voting machines: to provide for the payment for voting machines: to provide for the demonstration of voting machines by renting, leasing or borrowing; to provide for the furnishing and delivery of election supplies: to provide for the preparation of voting machines for elections: to provide for the opening of the polls: to provide for the instruction of election officials: to provide for election officials and their duties at elections: to provide for the voting of challenged ballots: to provide for the nomination of candidates in primary elections when only one candidate qualifies for an office, by omitting said name and office from the ballot: to provide for the instruction of voters before an election: to provide for the instruction and assistance of voters on election day: to provide for models and diagrams: to provide for the voting of irregular ballots: to provide for the voting of absentee ballots: to provide for the repair or substitution of voting machines and the use of paper ballots; to provide for ballot labels to be used on voting machines: to provide for the hours of voting: to provide for the canvass of the vote and proclamation of the results: to provide for a statement of the canvass of the vote: to provide for the preservation of ballots and the records of voting machines: to provide for the appointment of custodians: to provide for the custody of voting machines and the keys thereof: to provide for the recanvass of votes: to provide for the regulation of the use of voting machines in cities, towns or other political subdivisions: to provide penalties for the violations of this act and of rules and regulations pursuant thereto: to repeal all laws and parts of laws inconsistent with the provisions hereof: and to establish the manner of the taking effect of this act," approved August 25, 1939.

Be it Enacted by the Legislature of Alabama:

Section 1. That Section 1 of an Act entitled "An Act to provide for the use of voting machines for registering, recording and computing the votes at all elections in any county, municipality, or other political subdivision of the State: to provide for referendum elections for voting for or against the use of voting machines in counties, cities or other political subdivisions of the State: to provide by local act for permitting the governing body of any county, municipality or other political subdivision to install voting machines without first submitting the question to the vote of the qualified electors: to provide for the method of procurement and installation of voting machines by rental, lease or purchase, and the terms thereof: to provide for the discontinuance of the use of voting machines: to provide for the mechanical qualifications, construction and requirements of voting machines: to provide for adequate guarantees by manufacturers, vendors and lessors of voting machines: to provide for the payment for voting machines: to provide for the demonstration of voting machines by renting, leasing or borrowing: to provide for the furnishing and delivery of election supplies: to provide for the preparation of voting machines for elections: to provide for the opening of the polls: to provide for the instruction of election officials: to provide for election officials and their duties at elections: to provide for the voting of challenged ballots: to provide for the nomination of candidates in pri-

mary elections when only one candidate qualifies for an office, by omitting said name and office from the ballot: to provide for the instruction of voters before an election: to provide for the instruction and assistance of voters on election day: to provide for models and diagrams: to provide for the voting of irregular ballots: to provide for the voting of absentee ballots: to provide for the repair or substitution of voting machines and the use of paper ballots: to provide for ballot labels to be used on voting machines: to provide for the hours of voting: to provide for the canvass of the vote and proclamation of the results: to provide for a statement of the canvass of the vote: to provide for the preservation of ballots and the records of voting machines: to provide for the appointment of custodians: to provide for the custody of voting machines and the keys thereof; to provide for the recanvass of votes: to provide for the regulation of the use of voting machines in cities, towns or other political subdivisions: to provide penalties for the violations of this Act and of rules and regulations pursuant thereto: to repeal all laws and parts of laws inconsistent with the provisions hereof: and to establish the manner of the taking effect of this act," be and the same is hereby amended to read as follows:

"Section 1. DEFINITION OF TERMS. The list of offices and candidates, and the statements of questions on the Voting Machine shall be deemed an "official ballot." As used in this Act: (a) the words "ballot labels" shall mean the cards, paper or other material, containing the names of offices and candidates and statements of questions to be voted on. (b) The word "diagram" shall mean an illustration of the official ballot, when placed upon the machine, showing the emblems of all political parties entering candidates to be voted on for office, as such emblems have heretofore, and are hereafter provided for by law or by party rules, names of political parties, offices and candidates, and statements of the questions, in their proper places, together with the voting devices therefor, and shall be considered a specimen ballot. (c) The word "question" shall mean a statement of such constitutional amendment or other proposition as shall be submitted to a popular vote at any election. (d) The words "irregular" ballot shall mean the paper or other material on which a vote is cast on a voting machine for persons whose names do not appear on the ballot label. (e) The words "candidate counters," and "Question counters" shall mean the counters on which are registered numerically the votes cast for candidates, and on questions, respectively. (f) The words "public counter" shall mean a counter or other device which shall publicly indicate how many times the machine has been operated at an election. (g) The words "protective counter" shall mean a counter or protective device or devices that will register each time the machine is operated, and shall be constructed and so connected that

it cannot be reset, altered or operated, except by operating the machine. (h) The words "voting machine booth" shall mean the enclosure occupied by the voter when voting. (i) The word "model" shall mean a mechanically operating model of a portion of the face of the machine, illustrating the manner of voting. (j) The word "custodian" shall mean the person charged with the storing and caring for the voting machines when not in use in elections. (k) The words "elections" whenever used in the act, shall be held to include and mean all general, municipal, primary, bond, tax rate, school and special elections of any kind. (l) The word "Seal" and other words of the singular number relative thereto, shall include the plural number as applied to a voting machine machine, designed to be made secure with two or more seals. (m) The words "City Commissioner" shall mean any municipal authority by whatever name called that is legally constituted to supervise and manage the affairs of the town or city or other like political subdivision of the state. (n) The words "County Board" shall include the County Commission, Board of Revenue, or other like governing body of any county, and said words shall mean any county authority by whatever name called that is legally constituted to supervise and manage the affairs of the county. (o) The use of the words "county," "city," or "municipality" shall not be interpreted to exclude from the use of voting machines any other political subdivision of the state, but the same laws, rules and regulations that apply to the use of voting machines in counties, cities or municipalities shall apply to other political subdivisions of the state so far as they are applicable and pertinent."

Section 2. That this act shall take effect upon its passage and approval by the Governor.

Approved July 10, 1940.

No. 625)

(H. 578—Welch and Smyer

AN ACT

To repeal an Act of the Legislature No. 116, House Bill No. 173, approved June 12, 1935, entitled, "An Act to fix and regulate guardian ad litem fees, commissions and allowances to be charged as court costs in all counties of this State having a population of 300,000 or more according to the last decennial Federal census or which may in the future have such a population according to any such Federal census which may hereafter be taken and to provide for the paying out of such fees, commissions or allowances to whomsoever may be entitled thereto; and to repeal all laws and parts of laws in conflict with this Act."

Be it Enacted by the Legislature of Alabama:

Section 1. That an Act of the Legislature No. 116, House Bill No. 173, approved June 12, 1935, entitled "An Act to fix and regu-

late guardian ad litem fees, commissions and allowances to be charged as court costs in all counties of this State having a population of 300,000 or more according to the last decennial Federal census or which may in the future have such a population according to any such Federal census which may hereafter be taken and to provide for the paying out of such fees, commissions or allowances to whomsoever may be entitled thereto; and to repeal all laws and parts of laws in conflict with this Act," be and the same is hereby repealed.

Section 2. This Act shall be effective immediately upon its approval by the Governor, or its otherwise becoming a law.

Approved July 10, 1940.

No. 626)

(H. 686—Scott

AN ACT

To Protect the Forests of the State of Alabama, and to provide penalties for the violation hereof.

Be it Enacted by the Legislature of Alabama:

Section 1. Any person or persons who shall (1) Wilfully and knowingly cut, kill, destroy, girdle, chop, chip, saw, or otherwise damage timber or forest products not his own or without authority of the legal owner; (2) Wilfully and knowingly remove timber or other forest products other than his own or without authority of the legal owner; (3) Wilfully and knowingly transport timber or other forest products which have been severed or removed in violation of Paragraphs 1 or 2 of this Section; (4) Wilfully and knowingly purchase or contract to purchase or otherwise obtain timber or forest products severed, removed or transported in violation of Paragraphs 1, 2 or 3 of this Section; (5) Wilfully and knowingly sell, contract to sell or otherwise dispose of logs, poles, piling, cross ties, pulpwood, veneer bolts, staves or other unmanufactured or semi-manufactured forest products not his own or without authority of the legal owner, shall be deemed guilty of a misdemeanor and shall be punished by a fine of not less than \$10.00 nor more than \$1,000.00 and may also be imprisoned in the county jail or sentenced to hard labor for not less than ten days nor more than twelve months.

Section 2. In any affidavit, information or indictment under this Act the person or persons accused may be charged with commencing or conspiring to commence at some particular time to commit any of the acts hereby made punishable, and of continuing to commit the same at divers times and on divers days between that day and some other day to be therein stated. It shall not be neces-

sary, in order to convict, to prove title of the lands on which the alleged violation of Sections 1 of this Act occurred, but it shall be sufficient to prove title, legal, equitable or colorable in the State of Alabama, or any corporation or any person or persons other than the accused; and it shall not be necessary to allege in the affidavit, information or indictment or prove on the trial the kind of timber or forest products which are the subject of the action.

Section 3. Any persons who shall violate Sections 1 of this Act and any persons who shall aid and abet or assist any other persons in so doing shall be jointly and severally liable to the owner in double the value thereof of the timber and trees damaged, or destroyed or cut and removed, to be recovered by action at law in the name of the State, in case the same should be cut from the lands of the State, or in the name of the corporation or person or persons owning the lands in case the same shall be so cut from other lands, and the defendant or defendants in any case at law or in equity, arising out of any violation under Section 1 of this Act shall not be entitled to his, or their, exemption under the Constitution or Laws of Alabama against any judgment obtained against him or them for such violation.

Section 4. Any person, firm or corporation buying, contracting to buy, or otherwise acquiring logs, poles, piling, cross ties, pulpwood, veneer bolts, stave bolts or other unmanufactured or semi-manufactured forest products shall keep a written record in this state of every such purchase. Said record shall contain the name of the person or persons from whom such property was acquired, the amount thereof, the date of delivery, and the section, township and range from which such timber or other forest products were severed, which information shall be obtained from the person or persons from whom such property was acquired. This record must be a true, accurate, and correct statement of the transaction as provided for in this section, and any person or persons who knowingly gives false information to the purchaser of such property or who wilfully misstates the facts with intent to defraud shall be guilty of a misdemeanor and shall be punished by a fine not less than \$10.00 nor more than \$100.00, or a jail sentence of not less than 10 days nor more than 1 year, or both such fine and imprisonment, provided that the purchaser shall be entitled to rely upon the information furnished him by the seller. The information given under the provisions of this section shall be kept by the person or persons acquiring such forest products and shall be available, during business hours, to a duly authorized agent or employee of the Department of Conservation of the State of Alabama, and such record shall be kept available for a period of not less than 3 years, and any person, firm or corporation failing to keep such record or in any manner falsifying same, shall be guilty of a misdemeanor and

shall be punished by a fine not less than \$10.00 nor more than \$100.00 or a jail sentence of not less than 10 days nor more than a year, or both such fine and imprisonment.

Section 5. All employees of the Department of Conservation shall have the powers of peace officers in the enforcing of the provisions of this Act. They shall be allowed to enter any lands and to do any work necessary in the performance of their duties without liability for trespass or damage therefrom.

Section 6. All fines collected from violations of Secs. 1 and 4 of this Act shall go to the Division of Forestry, Department of Conservation.

Section 7. If any provision or part of this Act shall be held unconstitutional, invalid or for any reason ineffective, it shall not affect or invalidate any of the remaining provisions of this Act.

Section 8. All laws and parts of laws, whether general, local or special, in conflict with any of the provisions of this Act are hereby expressly repealed.

Section 9. This Act shall become effective January 1, 1941.

Approved July 10, 1940.

No. 628)

(H. 917—Welch

AN ACT

To adopt a Code of Laws for the State of Alabama.

Be it Enacted by the Legislature of Alabama:

Section 1. That the work prepared by The Harrison Company, The Michie Company, and The West Publishing Company, as the Code Commissioner, in accordance with the terms of contracts entered into, on the 8th day of February, 1939, and the 30th day of August, 1939, by and between the said companies, on the one part, and the State of Alabama, acting by and through the Governor, on the other part, under the authority of an act approved February 7, 1939, providing for the revision, codification, digesting and promulgation of the public statutes of this State, and repealing "an act entitled to provide for the revision, codification, digesting, and promulgation of the public statutes of this State approved April 21, 1936," and an act approved August 30, 1939, further providing for the revision, codification, digesting, and promulgation of the public statutes of the State of Alabama, which act is supplemental to and cumulative of the act approved February 7, 1939, as such work has been revised, amended, corrected and reported by the Joint Committee of the two Houses of the Legislature created for such purpose, which work is shown upon the sheets of the manuscript bearing the official stamp of the Chairman of the Joint Committee, be

and the same hereby is adopted and enacted as the Code of Alabama.

Section 2. The Code of Alabama as herein adopted shall go into effect and be operative on the thirtieth day after the date of the Governor's proclamation announcing its publication, and shall govern completely, so far as a statute can, the subjects to which it relates; provided, however, that no statute enacted on or after the 25th day of June, 1940, shall be repealed or affected in any manner by the adoption of this Code.

Section 3. Upon the passage and approval of this act, the Secretary of the Senate shall forthwith deliver the manuscript of the Code of Alabama as herein adopted, together with the minutes and all other records of the Joint Committee of the two Houses of the Legislature created for the purpose of revising, amending and correcting the work prepared by the Code Commissioner, to the Chairman of said Committee, the Vice-Chairman of said Committee, and the Speaker Pro Tem of the House of Representatives, who shall constitute a Commission for the purpose of carrying out the provisions of this section. The Commission shall thereupon deliver such manuscript to the Code Commissioner, which Code Commissioner shall proceed to print the Code of Alabama according to the terms of the contracts referred to hereinabove. When the printed Code of Alabama is completed, the Code Commissioner shall certify that the same has been compared with the manuscript of the Code of Alabama as adopted by the Legislature and that the Code of Alabama as printed is the same as adopted, which certificate must be printed in every copy of the Code of Alabama. Thereupon, the manuscript of the Code of Alabama shall be returned by the Code Commissioner to the Commission herein created. It shall be the duty of the Commission herein created to forthwith transmit such manuscript, together with the minutes and all other records delivered to it by the Secretary of the Senate, to the Secretary of State. The Director of Finance shall procure and furnish to the Secretary of State such number of suitable fireproof iron or steel boxes or cabinets as may be necessary, in which to safely keep the manuscripts of the Code of Alabama and the minutes and other records delivered to him by such Commission. Each box or cabinet shall be equipped with two locks, the key to one of which shall be kept by the Secretary of State or his chief clerk, the key to the other to be kept by the State Treasurer or his chief clerk. Such boxes or cabinets shall be kept in the office of the Secretary of State and shall not be opened except in the presence of the Secretary of State and the State Treasurer. In the absence of the Secretary of State, the presence of his chief clerk shall suffice, and in the absence of the State Treasurer, the presence of his chief clerk shall suffice. The original manuscript and the minutes and other records delivered to the Secretary of State by the Commission herein created shall not be removed from

the office of the Secretary of State, but the Secretary of State, upon request, under proper certificate and seal of his office, shall certify any part or parts thereof upon the payment to him of the fee provided by law for similar services. The members of the Commission herein created shall each receive, as compensation for the performance of the duties herein placed upon them, the sum of Ten Dollars per day for each day actually engaged in the performance of such duties, not to exceed Three Hundred Dollars each, and shall be reimbursed for all actual expenses necessarily incurred by them in the performance of such duties. There is hereby appropriated out of any funds in the State Treasury not otherwise appropriated such sum as may be necessary to pay the compensation and expenses herein provided for, including the cost of procuring the boxes or cabinets herein required to be furnished to the Secretary of State.

Section 4. The Code of Alabama, as printed and published, with the certificate of the Code Commissioner hereinabove provided for, must be received as the law in all courts and in all proceedings before any board, body or officer of this State, subject to corrections by the original manuscript on file in the office of the Secretary of State; provided, however, the annotations, title pages, cross references, and marginal references of the Code of Alabama shall not constitute or be construed as a part of the laws of this State, but are intended as mere indices of the contents thereof.

Section 5. That this act shall become effective upon its passage and approval by the Governor, or its otherwise becoming a law.

Approved July 2, 1940.

No. 629)

(H. 1028—Smyer

AN ACT

To require a permit for the erection, construction, addition to, enlargement of, moving, or demolishing any building or structure in each county of the State of Alabama having a population of 200,000 or more, according to the last or any subsequent Federal Census; to provide for the issuance of such permits and fees therefor; to provide for the keeping of records relating to such permits; to provide for appeals from decisions denying such permits; and to provide penalties for the violation of this Act.

Be it Enacted by the Legislature of Alabama:

Section 1. DEFINITIONS. The following words whenever used in this Act shall have the meanings respectively ascribed to them in this section unless the context plainly indicates a contrary meaning: "Engineer," "County Engineer" or "Such County Engineer" shall mean the engineer of the county whose duties most nearly correspond to those of county engineer.

Section 2. PERMIT REQUIRED. No person shall erect or construct any building or structure, nor add to, enlarge, move or

demolish any building or structure in any county of the State of Alabama having a population of 200,000 or more, according to the last or any subsequent Federal Census, without first obtaining a permit therefor as hereinafter provided; provided, however, that this Act shall not apply within the corporate limits of any municipality which requires the issuance of building permits therein; and provided further, that this Act shall not apply where the total cost of the construction, enlargement of, addition to, moving, or demolishing such building or structure is less than \$500.00.

Section 3. APPLICATION. Any person desiring a permit as required by this Act shall file with the county engineer of such county an application therefor in writing, verified by affidavit, on a blank form to be furnished by such county. Such application shall contain (1) a definite and legal description of the land upon which the proposed building or work is to be done; (2) the total estimated cost; (3) a brief description of the type and character of such building or work; (4) the use to which such building or structure is to be devoted; (5) and such other information as the county engineer may require.

Section 4. DUTIES OF COUNTY ENGINEER. It shall be the duty of the county engineer of such county, or his duly appointed assistant, to receive and inspect such application filed with him and to issue such permit, within five days from the date of filing same, upon the payment of a fee of \$.50, unless such application is insufficient under this Act, or unless the improvements proposed to be made are in violation of law. Such permits shall be issued upon blanks provided therefor by such county, a duplicate of each permit to be kept by such county engineer. Before issuing any permit such county engineer or his duly authorized assistant shall have the right and authority to examine the detailed plans and specifications of the building proposed to be erected and to inspect the proposed location of the building or work prior to the issuance of the permit but in no event shall he be permitted to refuse to issue said permit unless the proposed improvements to be erected are in violation of law. All permits issued or refused by him and all affidavits and other documents filed shall be kept for a period of at least two years and shall be public records open to inspection at any and all reasonable hours.

Section 5. APPEAL. Whenever a permit is denied by such county engineer the person applying therefor shall have the right at any time within thirty days after such denial, to appeal from the decision of the county engineer to the circuit court having jurisdiction in such county. Such appeal may be taken by filing with the clerk of such circuit court a notice of appeal, together with security for the cost thereof in the circuit court, such security to be approved by said clerk. Such notice of appeal shall show briefly

the application which was denied, when it was denied, and the name of the court to which the appeal is taken. Upon the filing of such notice and the approval of the security for cost by the clerk of the court, the clerk of such court shall within ten days issue a notice of appeal to be served on such county engineer. After the service of such notice of appeal, it shall be the duty of such county engineer to forthwith transmit to the clerk of said court a certified copy of the application for such permit, his order thereon, and any other papers or documents filed with such county engineer relating thereto. In the circuit court the trial shall be de novo.

Section 6. **PENALTIES:** Any person violating any of the provisions of this Act shall be guilty of a misdemeanor and shall be punished for such violations according to law.

Section 7. **COST.** The blank forms herein provided for shall be furnished to the county engineer by the governing body of such county and the necessary costs of administering this Act by the county engineer shall be paid by the governing body of such county.

Section 8. This Act shall go into effect upon its approval by the Governor.

Approved July 10, 1940.

No. 632)

(H. 1053—Smyer

AN ACT

To provide that in all counties of this State which now have or may hereafter have a population of more than 300,000 according to the last or any subsequent Federal Census, the Judge of the Probate Court of such counties may try inquisitions of lunacy with or without a jury; and to further provide that when a jury is demanded in such proceedings, said jury shall be impaneled in the same manner as is now provided for the trial of a will contest in the Probate Courts of this State.

Be it Enacted by the Legislature of Alabama:

Section 1. That in all counties of this State which now have or may hereafter have a population of more than 300,000 according to the last or any subsequent Federal census, the Judge of the Probate Court of such counties shall have the power and authority to try inquisitions of lunacy without a jury and that such inquisition shall be tried without a jury unless the alleged non compos mentis or his Attorney or next friend or the Guardian ad Litem appointed by the Court in such proceeding demands a jury trial at anytime before the day set by the Court for the trial of such inquisition; which day shall not be less than ten days after the filing of said petition.

Section 2. Should a jury be demanded for the trial of such inquisition, the Probate Judge shall cause a jury to be impaneled

as is now provided by law for the contest of wills in the Probate Courts of this State.

Section 3. This Act shall take effect immediately upon its approval by the Governor.

Approved July 10, 1940.

No. 633)

(H. 1054—Smyer

AN ACT

To confer on the Probate Courts in all counties of this State, which now have or may hereafter have a population of 400,000 or more, according to the last or any subsequent Federal census, general equity jurisdiction, concurrent with that of the Circuit Courts, in Equity, of this State in the administration of the estates of deceased persons, minors and insane persons, including testamentary trust estates; and to confer on the judges of such Probate Courts the same powers and authority which Judges and Registers of the Circuit Courts of this State now have in connection with the administration of such estates in the Circuit Courts, in Equity; to provide for the pleading, practice and procedure in such matters, and for the enforcement of judgments and decrees and for appeals to the Supreme Court from the orders, judgments and decrees of such courts; to provide for the compensation of the judges of such courts, including the assessment and collection of fees, commissions and costs of court for the performance of the duties authorized by this act.

Be it Enacted by the Legislature of Alabama:

Section 1.—That the Probate Courts in all counties of this State which now have or may hereafter have a population of 400,000 or more, according to the last or any subsequent Federal census, shall have general equity jurisdiction concurrent with that of the Circuit Courts, in equity, of this State, in the administration of the estates of deceased persons, minors and insane persons, including testamentary trust estates.

Section 2.—That the Judges of such Probate Courts shall have the same powers and authority which Judges and Registers of the Circuit Courts of this State now have in connection with the administration of such estates in the Circuit Courts, in equity.

Section 3.—That all laws of pleading and practice, and evidence, and rules of court, and all laws relating to testamentary trusts and testamentary trustees, and all laws relating to the mode of obtaining evidence by oral examination or by depositions, and of compelling the attendance of witnesses, and of enforcing orders, decrees and judgments now applicable in the Circuit Courts, in equity, shall apply to the administration of such estates in said Probate Courts, in so far as the same can be made appropriate.

Section 4.—That in the administration of said estates, such Probate Courts may proceed according to the rules and practice of the Circuit Courts, in equity, of this state, without regard to the

statutory requirements provided for the administration of such estates in the Probate Courts of this State; but nothing herein is intended to prohibit such Probate Courts from proceeding in accordance with the statutes relating to the administration of such estates in the Probate Courts of this State generally.

Section 5.—Appeals may be taken from the orders, judgments and decrees of such Probate Courts, relating to the administration of such estates, including decrees on partial settlements and rulings on demurrer, to the Supreme Court within thirty days from the rendition thereof, or within thirty days from the decision of such Courts on a motion for new trial, in the manner and form as is now provided for appeals from the Probate Courts to the Supreme Court.

Section 6.—The Probate Judges of such Courts shall perform all the duties now required by law of the Judges and Registers of the Circuit Courts of this State, in reference to the administration of such estates and shall be entitled to assess and collect the same costs of court, charges, fees and commissions as are now authorized by law to be assessed and collected by Registers of the Circuit Courts for the performance of similar duties.

Section 7.—The jurisdiction conferred by this act on the Probate Courts and Probate Judges of such counties is intended to be cumulative only, and it is not intended hereby to in any manner limit or restrict the present jurisdiction of the Circuit Courts or the Probate Courts of such counties. Nothing herein shall be construed as prohibiting the removal of any such estates from the Probate Court in such counties to the Circuit Court, in equity, as is now provided by law.

Section 8.—It is the primary intention of this act to expedite and facilitate the administration of such estates in counties of over 400,000 population and should any part of said act be declared unconstitutional it is not intended that it shall effect the remainder of the act.

Section 9.—All laws in conflict herewith are hereby repealed.

Section 10.—This act shall take effect immediately upon its approval by the Governor.

Approved July 10, 1940.

No. 636)

(H. 1065—Quarles and Barchard

AN ACT

To amend Section 188 of the Military Code of Alabama as contained in the Act of the Legislature approved April 22, 1936, and entitled "An Act to revise, collate and codify into one Act the general statutes of the State of Alabama relating to the Militia, which Act shall constitute and be designated and cited as the Military Code of Alabama; to regulate and

provide for the Military and Naval Forces of the State and promote the efficiency of these forces; to provide rules, regulations and means for their organization, armament, equipment, discipline, control and supervision; to provide for their maintenance, support and upkeep; to provide for their allocation, organization and equipment, discipline, training, and maintain these forces for State and National Emergencies in compliance with the provisions of the National Defense Act and Federal Laws governing the Naval Militia or Naval Reserves as now or as these acts may be hereafter amended; to provide a Department, to be designated and known as the Department of Military and Naval Affairs, for the purpose of administration of all provisions of this Act and the execution of all rules and regulations written under this Act; to provide means for the enforcement of this Act; to repeal all code sections and all acts and parts inconsistent with this Act; and to fix penalties and punishments for the violation of this Act." so as better to provide for support of increases of the Alabama National Guard during peace or during National Emergencies and for payment of obligations and expenses of the Armory Commission of Alabama.

Be it Enacted by the Legislature of Alabama:

Section 1. Section 188 of the Military Code of Alabama as contained in the Act of the Legislature approved April 22, 1936, and entitled "An Act to revise, collate and codify into one Act the general statutes of the State of Alabama relating to the Militia, which Act shall constitute and be designated and cited as the Military Code of Alabama; to regulate and provide for the Military and Naval Forces of the State and promote the efficiency of these forces; to provide rules, regulations and means for their organization, armament, equipment, discipline, control and supervision; to provide for their maintenance, support and upkeep; to provide for their allocation, organization and equipment, discipline, training, and maintain these forces for State and National Emergencies in compliance with the provisions of the National Defense Act and Federal Laws governing the Naval Militia or Naval Reserves as now or as these acts may be hereafter amended; to provide a Department, to be designated and known as the Department of Military and Naval Affairs, for the purpose of administration of all provisions of this Act and the execution of all rules and regulations written under this Act; to provide means for the enforcement of this Act; to repeal all code sections and all acts and parts inconsistent with this Act; and to fix penalties and punishments for the violation of this Act." is hereby amended so as to read as follows: "Section 188. "ACTIVE MILITARY SERVICE" APPROPRIATION: In addition to the monies to be appropriated for the purpose stated in Section 187, there shall be appropriated by the Legislature at each of its quadrennial sessions, or such other sessions as conditions may require, out of the monies not otherwise appropriated, an "Active Military Service" appropriation providing such sum as may be necessary for pay, allowances, subsistence, shelter, travel and other necessary expenses of the Militia called into the

active military or naval service of the State for the purpose of enforcing the law, preservation of peace, for the security of lives of citizens, for aid and relief of our citizens in case of disaster, for the protection of property and for such other purposes as the Governor or The Adjutant General may, for specific reasons, designate as in the active military or naval service of the State. The Governor is authorized, at his discretion, to supplement, in such amount or amounts as he shall deem advisable from time to time, any item of any regular appropriation for military purposes out of the Active Military Service appropriation authorized by this Section, for the use of the State Military Department or the Armory Commission of Alabama, or both, in providing for any additional duties, services, supplies, materials, equipment, housing, training facilities, maintenance or other expenses needed to provide for the proper maintenance, support, administration, and training of any additional strength or units of the National Guard over and above the strength and units thereof on June 30, 1939, or of any additional strength or units of the National Guard authorized by the United States Government during a period of National Emergency and while the same are not in the active military service of the United States. The Governor may also authorize, in his discretion, the payment to the Armory Commission of Alabama of any part of any unexpended balance of any annual budget allotment or estimate made by or with the approval of the Governor for or under the said "Active Military Service" appropriation for the purpose of paying or satisfying any obligations of the Armory Commission of Alabama incurred in the performance of any of its duties under the laws of the state. There shall be set up in the annual budget of the State an allotment or estimate of not less than forty thousand dollars under said appropriation, but no annual or periodic budget allotment or estimate contained in or made under authority of any Act, nor anything contained in this section, shall be construed as placing a maximum limitation on the "Active Military Service" appropriation herein authorized, provided, however, that expenditures from this appropriation shall not exceed such annual budget allotment without the express approval of the Governor. The disbursement of all funds appropriated by this section shall be on vouchers approved by The Adjutant General and the Governor."

Section 2. If any section, paragraph, clause, or separate provision of this Act or of said Military Code of Alabama as amended by this Act shall be held to be invalid, such fact shall not affect or render invalid any other section, paragraph, clause, or separate provision of this Act or of said Military Code of Alabama as amended by this Act, it being the intention of the Legislature in enacting this Act to enact each such section, paragraph, clause, and provision separately.

Section 3. Any law or part of any law enacted prior to the date of approval of this Act which is inconsistent with any provision of this Act or of said Military Code of Alabama as amended by this Act is hereby expressly repealed.

Section 4. This Act and all the provisions thereof shall become effective immediately upon its approval.

Approved July 11, 1940.

No. 638)

(H. J. R. 142—Mathews

HOUSE JOINT RESOLUTION

WHEREAS, it has come to the attention of the Alabama Legislature through the press of this State that efforts are being made to organize the employees of this State into a union, same to be affiliated with either the A. F. L. or the C. I. O., and

WHEREAS, the right to organize carries with it the right to strike which is right, if exercised by the organization of State employees mentioned would result in chaos and take from the servants of this State elected by the people the right and power to manage the State's affairs and transfer same to the officials of the A. F. L. and the C. I. O., and

WHEREAS, even the thought of such possibility is repugnant to every sense of democracy, therefore,

BE IT RESOLVED by this Legislature, the Senate concurring, that the effort to organize State employees supported by the taxpayers' money,—Jew, Catholic and Protestant alike is viewed with grave concern and disfavor by this Legislature.

BE IT FURTHER RESOLVED that copies of this resolution be given to the Governor of this State and to the press of this State in order that its citizenship may know that the spirit of Democracy still lives in this the first State on the alphabetical list of states of the Union—that spirit now threatened with extinction both in America and throughout the world.

Approved July 10, 1940.

No. 639)

(H. J. R. 144—McGowin

HOUSE JOINT RESOLUTION

BE IT RESOLVED by the House of Representatives, the Senate concurring, that Hon. W. S. Welch, Chairman, and Senator John A. Lusk, Jr., Vice-Chairman, and the members of the Joint Committee of the two Houses of the Legislature created for the purpose of revising, amending and correcting the work prepared by

the Code Commissioner, be gratefully commended for the successful completion of the 1940 Code of Alabama, and for the learning, courage, and devotion with which they have applied themselves to this difficult task.

Approved July 10, 1940.

No. 640)

(S. 211—Harris

AN ACT

To authorize the payment, certification or acceptance of, a check or other negotiable instrument or any other transaction by a bank or trust company in this state, done or performed on any Saturday between twelve o'clock noon and midnight, provided such payments, certification, acceptance or other transaction would be valid if done or performed before twelve o'clock noon on such Saturday.

Be it Enacted by the Legislature of Alabama:

Section 1. Nothing in any law of this state shall in any manner whatsoever affect the validity of, or render void or voidable, the payment, certification or acceptance of, a check or other negotiable instrument or any other transaction by a bank or trust company in this state, because done or performed on any Saturday between twelve o'clock noon and midnight, provided such payment, certification, acceptance, or other transaction would be valid if done or performed before twelve o'clock noon on such Saturday; provided further that nothing herein shall be construed to compel any bank or trust company in this state, which by law or custom is entitled to close at twelve o'clock noon on any Saturday, to keep open for the transaction of business or to perform any of the acts or transactions aforesaid, on any Saturday after such hour except at its own option.

Section 2. All laws and parts of laws in conflict with this Act be and the same are hereby repealed.

Section 3. This Act shall take effect and be operative immediately upon its approval by the Governor or upon it becoming a law.

Approved July 10, 1940.

No. 641)

(S. 212—Harris)

AN ACT

To fix limitations on revocations, countermands of payments and stop-payment orders relating to the payment of checks or drafts against bank accounts or relating to the payment of notes or acceptances payable at a bank.

Be it Enacted by the Legislature of Alabama:

Section 1. No revocation, countermand or stop-payment order relating to the payment of any check or draft against an account of a depositor in any bank or trust company doing business in this state or relating to the payment of a note or acceptance payable at the bank shall remain in effect for more than six months after the service thereof on the bank, unless the same be renewed, which renewals shall be in writing and which renewals shall be in effect for not more than six months from the date of service thereof on the bank or trust company, but such renewals may be made from time to time.

Section 2. No notice affecting a check upon which revocation, countermand or stop-payment order has been made at the time of the taking effect of this act shall be deemed to continue for a period of more than six months thereafter.

Section 3. All laws or parts of laws in conflict with this Act be and the same are hereby repealed.

Section 4. This Act shall take effect and be operative immediately upon its approval by the Governor or upon it becoming a law.

Approved July 10, 1940.

No. 642)

(S. 292—Calhoun)

AN ACT

To Amend Section 6898 of the Code of Alabama of 1923.

Be it Enacted by the Legislature of Alabama:

That Section 6898 of the Code of Alabama of 1923 be amended so as to read as follows: 6898—Conditional Sales, Leases, etc., to be Recorded. All other contracts for the conditional sale of personal property, by the terms of which the vendor retains the title until payment of the purchase money and the purchaser obtains possession of the property, and all contracts for the lease, rent, or hire of personal property, by the terms of which the property is delivered to another on condition that it shall belong to him whenever the amount paid shall be a certain sum, or the value of the property, the title to remain in the other party until such sum or

value shall have been paid, are, as to such conditions void against purchasers for a valuable consideration, mortgagees, landlords with liens and judgment creditors without notice thereof, unless such contracts are in writing and recorded in the office of the Judge of Probate of the county in which the party so obtaining possession of the property resides, and also the county in which such property is delivered and remains; and if any such property is brought into this state while subject to such conditions, the contract of sale, lease, hire, or rent, must within three months thereafter be recorded in the county into which the property is brought and remains; but where such contracts are for less than two hundred dollars in amount and also run for two years or less, and relate exclusively to household or kitchen furniture, goods, appliances, or equipment, so long as such personal property remains in the county in which the vendor or lessor resides or has an established place of business, they need not be filed for record as provided in this section.

Section 2. All laws and parts of laws, general, local, or special in conflict with the provisions of this Act are hereby repealed.

Approved July 11, 1940.

No. 643)

(S. 312—Devane

AN ACT

Relating to reciprocal agreements between the Alabama Department of Agriculture and Industries and those of other states pertaining to fees for inspection certificates or permits:

Be it Enacted by the Legislature of Alabama:

Section 1. That notwithstanding the provision of Section 292, Article 26, of the Agricultural Code of 1927, the Commissioner of Agriculture and Industries may enter into reciprocal agreements with the responsible officers of other states whereby the required out-of-state inspection certificate or permit may be granted to nurserymen and dealers of such states without the payment of the required fee, provided Alabama nurserymen and dealers are permitted to ship nursery stock into such states without having to pay a fee for an inspection certificate or permit granting that privilege; and provided, further, that the Commissioner of Agriculture and Industries shall find that such other states before issuing their inspection certificates or permits require inspections equal to those required under the Alabama law.

Section 2. All laws or parts of laws in conflict with this Act are hereby repealed.

Section 3. This Act shall become effective immediately upon its passage and approval by the Governor.

Approved July 10, 1940.

No. 644)

(S. 363—Conway)

AN ACT

To amend Section 1883 of the Code of Alabama, 1923.

Be it Enacted by the Legislature of Alabama:

Section 1. That Section 1883 of the Code of Alabama, 1923, be and the same is hereby amended to read as follows: Section 1883. Canvassing returns.—Within three days after the delivery of the boxes, as hereinbefore required, the council or other city governing body shall proceed to open the same and canvass the returns, and the persons who shall have received the largest number of legal votes for the respective offices to be filled at such election, shall be declared elected to such offices, and a certificate of election shall be given to such persons by the council or other city governing body, or a majority of them, which shall entitle the persons so certified to the possession of their respective offices immediately upon the expiration of the term of their predecessors, as provided by law. In the event of a tie vote between the two or more persons in said election, for the same office, the council or other city governing body shall order a new election not later than thirty days thereafter, at which election said parties shall run off the tie vote, and the persons receiving the highest number of votes shall be declared elected. In the event that all opposition is withdrawn to a candidate receiving a tie vote, then no second election need be held, and such candidate shall receive a certificate of election. Provided, however, that in all incorporated municipalities which now have, or which may hereafter have, a population of one thousand or more inhabitants as determined by the Federal census the procedure shall be as follows: If at such election any candidate for office in said election has received a majority of the votes cast for that office, then such candidate shall be declared elected to such office and a certificate of election shall be given to such person by the council or other city governing body, which shall entitle the person so certified to the possession of such office immediately upon the expiration of the term of his predecessor as provided by law. If no candidate receives a majority of all the votes cast in such election for any one office or offices for the election to which there were more than two candidates, then, in such event, the council or other city governing body shall, not later than fifteen days after such election, order a new election to be held not later than twenty days after such election, at which election the two candidates receiving the highest number of votes in the first election for such office or offices shall run and the person receiving the highest number of votes shall be declared elected. Provided that whenever and wherever two or more

candidates for municipal offices of the same name (constituting a group) are to be elected, each of said places to be filled shall be designated by number by the council, and each candidate for such offices in the announcement of his candidacy shall designate the number of the office for which he is a candidate. The same person shall not be a candidate or permitted to file his declarations for more than one of such places, and should a run-off be necessary, such candidate may enter the election for only the place for which he announced in his original declaration, and no ballot shall be counted for any candidate in any election, whether original or a run-off, except for the place and number for which he announced in his declaration filed with the legally constituted authorities to receive and file declarations of candidacy. Each of said places to be filled shall be designated by number according to seniority in service of the existing incumbents. If there is no such seniority, they shall be numbered in alphabetical order of the names of the incumbents. In the event either of the two candidates receiving the highest number of votes in the first election shall determine not to enter the run-off election herein provided for, he shall, as soon as possible, and not later than ten days after the holding of the first election, certify his declaration to enter such second election to the council or other city governing body and upon the receipt of such notification such governing body shall declare the other candidate elected to such office and such candidate shall receive a certificate of election and no second election need be held for that particular office, nor shall the name of the party so declining to run be printed on the ballot of any second election held under the provisions of this section. In the event there should be a tie vote cast at any such run-off election, then, in such event, such tie shall be decided by the council or other city governing body.

Section 2. That all laws and parts of laws, general, special or local, in conflict with the provisions of this act are hereby repealed.

Section 3. That this act shall go into effect upon its passage and approval by the Governor or its otherwise becoming a law.

Approved July 10, 1940.

No. 645)

(S. 364—Young

AN ACT

To conserve Crude Petroleum Oil and Natural Gas; to create a State Oil and Gas Board, and to define its powers and duties; to provide for and designate a State Oil and Gas Supervisor and to define his powers and duties; to authorize such board to promulgate rules and regulations for the enforcement of the provisions of the act, and to conserve oil and gas; to provide penalties for the violation of the provisions of the act or the regulations promulgated thereunder; to repeal Sections 5085, 5086, 5087, 5088, 5089, 5090, 5091, 5092, 5093, 5094, 5095, 5096, and 5097 of the 1923

Code of Alabama; and to repeal all other laws and parts of laws in conflict with this Act.

Be it Enacted by the Legislature of Alabama:

Section 1. There is hereby created and established a board to be known as the State Oil and Gas Board to be composed of the Governor, the Attorney General and the Director of Conservation. The State Geologist shall ex-officio be the State Oil and Gas Supervisor, and shall perform all of the duties, and is hereby vested with all of the powers imposed upon and vested in the State Oil and Gas Supervisor under and by the terms and provisions of this Act.

Section 2. The State Oil and Gas Supervisor shall be charged with the duty of enforcing this Act and all rules, regulations and orders promulgated by said Board.

Section 3. Two members of the Board shall constitute a quorum, but two affirmative votes shall be necessary for the adoption or promulgation of any rule, regulation or order of the Board.

Section 4. Unless the context otherwise requires, the words defined in this section shall have the following meaning when found in this Act: (a) "Board" shall mean the State Oil and Gas Board as created by Section 1 hereof. (b) "Person" shall mean any natural person, corporation, association, partnership, receiver, trustee, guardian, executor, administrator, fiduciary or representative of any kind. (c) "Oil" shall mean crude petroleum oil, and other hydrocarbons, regardless of gravity, which are produced at the well in liquid form by ordinary production methods. (d) "Gas" shall mean all natural gas, including casing-head gas, and all other hydrocarbons not defined as oil in subsection (c) above. (e) "Pool" shall mean an underground reservoir containing a common accumulation of crude petroleum oil or natural gas or both. Each zone of the general structure which is completely separated from any other zone in the structure is covered by the term "pool" as used herein. (f) "Field" shall mean the general area which is underlaid or appears to be underlaid by at least one pool; and "Field" shall include the underground reservoir or reservoirs containing crude oil or natural gas, or both. The words "Field" and "Pool" mean the same thing when only one underground reservoir is involved; however, "Field", unlike "Pool", may relate to two or more pools. (g) "Waste", in addition to its ordinary meaning, shall mean "physical waste" as that term is generally understood in the oil and gas industry. It shall include: (1) underground waste and the inefficient, excessive, or improper use or dissipation of reservoir energy, including gas energy and water drive, of any pool; and the locating, spacing, drilling, equipping, operating, or producing of any oil well or gas well in a manner which results or tends to result in reducing the quantity of oil or gas ultimately recover-

able from any pool; and (2) surface waste and the inefficient storing of oil and the locating, spacing, drilling, equipping, operating, or producing of oil wells or gas wells in a manner causing or tending to cause unnecessary or excessive surface loss or destruction of oil or gas. (h) "Owner" shall mean the person who has the right to drill into and to produce from any pool, and to appropriate the production either for himself or for himself and another, or others. (i) "Producer" shall mean the owner of a well or wells capable of producing oil or gas, or both, in paying quantities.

Section 5. The production or handling of crude petroleum oil or natural gas in such manner or under such conditions as to constitute or result in waste as herein defined is each hereby prohibited.

Section 6. (a) The Board shall have jurisdiction and authority of and over all persons and property necessary to enforce effectively the provisions of this Act and all other Acts relating to the conservation of oil and gas. (b) The Board shall have the authority and it shall be its duty to make such inquiries as it may think proper to determine whether or not waste, over which it has jurisdiction, exists or is imminent. In the exercise of such power the Board shall have the authority to collect data; to make investigations and inspections; to examine properties, leases, papers, books and records, including drilling records and logs; to examine, check, test and gauge oil and gas wells, tanks, refineries and modes of transportation; to hold hearings; and to provide for the keeping of records and the making of reports; and to take such action as may be reasonably necessary to enforce this Act. (c) The Board shall have authority to make, after hearing and notice as herein-after provided, such reasonable rules, regulations and orders as may be necessary from time to time in the proper administration and enforcement of this Act, including rules, regulations and orders for the following purposes: (1) To require the drilling, casing and plugging of wells to be done in such a manner as to prevent the escape of oil or gas out of one stratum to another; to prevent the intrusion of water into oil or gas strata; to prevent the pollution of fresh water supplies by oil, gas or salt water; and to require reasonable bond conditioned for the performance of the duty to plug each dry or abandoned well. (2) To require the person desiring or proposing to drill any well in search of oil or gas, before commencing the drilling of any such well, to notify the State Geologist upon such form as the State Geologist may prescribe and to pay to the State Treasurer a fee of \$25.00 for each such well. The drilling of any well is hereby prohibited until such notice is given and such fee has been paid as herein provided. The State Geologist shall have the power and authority to prescribe that the said form indicate the exact location of such well, the name and address

of the owner, operator, contractor, driller, and any other person responsible for the conduct of drilling operations, the proposed depth of the well, the elevation of the well above sea level, and such other relevant information as the State Geologist may deem necessary or convenient to effectuate the purposes of this Act. All funds paid to the State Treasurer pursuant to the provisions of this section shall be disbursed by the State Treasurer upon warrants drawn by the State Geologist for the purpose of defraying expenses incurred by the State Geologist in the performances of his duties under this Act. (3) To require the filing of logs, including electrical logs, and drilling records, and the lodgement in the office of the State Geologist of typical drill cuttings or cores, if cores are taken, within six months from the time of the completion of any well. (4) To prevent wells from being drilled, operated, and produced in such a manner as to cause injury to neighboring leases or property. (5) To prevent the drowning by water of any stratum or part thereof capable of producing oil or gas in paying quantities, and to prevent the premature and irregular encroachment of water which reduces, or tends to reduce, the total ultimate recovery of oil or gas from any pool. (6) To require the operation of wells with efficient gas-oil ratios, and to fix such ratios. (7) To prevent "blow outs", "caving", and "seepage" in the same sense that conditions indicated by such terms are generally understood in the oil and gas business. (8) To prevent fires. (9) To identify the ownership of all oil or gas wells, producing leases, refineries, tanks, plants, structures, and all storage and transportation equipment and facilities. (10) To regulate the "shooting" and chemical treatment of wells. (11) To regulate secondary recovery methods, including the introduction of gas, air, water, or other substance into producing formations. (12) To regulate the spacing of wells. (13) Nothing in this act shall be construed as authorizing the Board to limit the production of any well or pool or field until such time as the total average daily production of the State shall exceed 50,000 barrels per day for a period of 90 consecutive days.

Section 7. (a) The Board shall prescribe its rules of order or procedure in hearings or other proceedings before it under this Act. (b) No rule, regulation or order, including change, renewal or extension thereof, shall, in the absence of an emergency, be made by the Board under the provisions of this Act except after a public hearing upon at least ten days' notice given in the manner and form as may be prescribed by the Board. Such public hearing shall be held at such time, place and in such manner as may be prescribed by the Board, and any person having any interest in the subject matter of the hearing shall be entitled to be heard. (c) In the event an emergency is found to exist by the Board which in its judgment requires the making, changing, renewal or extension of

a rule, regulation or order without first having a hearing, such emergency rule, regulation or order shall have the same validity as if a hearing with respect to the same had been held after due notice. The emergency rule, regulation or order permitted by this subsection shall remain in force no longer than fifteen days from its effective date, and, in any event, it shall expire when the rule, regulation or order made after due notice and hearing with respect to the subject matter of such emergency rule, regulation or order becomes effective. (d) All rules, regulations and orders made by the Board shall be in writing and shall be entered in full by the State Oil and Gas Supervisor in a book to be kept for such purpose by the Board, which shall be a public record and open to inspection at all times during reasonable office hours. A copy of such rule, regulation or order, certified by such Supervisor of the Board, shall be received in evidence in all courts of this state with the same effect as the original. (e) Any interested person shall have the right to have the Board call a hearing for the purpose of taking action in respect to any matter within the jurisdiction of the Board by making a request therefor in writing. Upon the receipt of any such request the Board promptly shall call a hearing thereon, and, after such hearing, and with all convenient speed and in any event within thirty (30) days after the conclusion of such hearing, shall take such action with regard to the subject matter thereof as it may deem appropriate.

Section 8. (a) The Board, or any member thereof, is hereby empowered to issue subpoenas for witnesses, to require their attendance and the giving of testimony before it, and to require the production of books, papers and records in any proceeding before the Board as may be material upon questions lawfully before the Board. Such subpoenas shall be served by the sheriff or any other officer authorized by law to serve process in this state. No person shall be excused from attending and testifying, or from producing books, papers and records before the Board or a court, or from obedience to the subpoena of the Board or a court, on the ground or for the reason that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate him or subject him to a penalty or forfeiture; provided, that nothing herein contained shall be construed as requiring any person to produce any books, papers or records, or to testify in response to any inquiry, not pertinent to some question lawfully before such Board or court for determination. No natural person shall be subjected to criminal prosecution or to any penalty or forfeiture for or on account of any transaction, matter or thing concerning which he may be required to testify or produce evidence, documentary or otherwise, before the Board or court, or in obedience to its subpoena; provided, that no person testifying shall be exempted from prosecution

and punishment for perjury committed in so testifying. (b) In case of failure or refusal on the part of any person to comply with any subpoena issued by the Board or any members thereof, or in case of the refusal of any witness to testify or answer to any matter regarding which he may be lawfully interrogated, any circuit court in this state, on application of the Board, may in term time or vacation, issue an attachment for such person and compel him to comply with such subpoena and to attend before the Board and produce such documents, and give his testimony upon such matters, as may be lawfully required, and such court shall have the power to punish for contempt as in case of disobedience of like subpoenas issued by or from such court, or for a refusal to testify therein.

Section 9. Any interested person affected by this Act or by any rule, regulation or order made or promulgated by the Board hereunder and who may be dissatisfied therewith shall have the right to file a suit in a court of competent jurisdiction against the Board or the members thereof as defendants to test the validity of any provision of this Act or any rule, regulation or order made or promulgated hereunder. Such suit shall be advanced for trial and be determined as expeditiously as feasible, and no postponement or continuance thereof shall be granted except for reasons deemed imperative by the Court. In such trials, the burden of proof shall be upon the party complaining of the validity of this Act or any provision thereof or any rule, regulation or order made or promulgated hereunder and any such rule, regulation or order so complained of shall be deemed *prima facie* valid.

Section 10. (a) No temporary restraining order or injunction of any kind shall be granted against the Board or the members thereof, or against the attorney general, or any circuit solicitor or against any agent, employee or representative of the Board, restraining the Board, or any of its members, or any of its agents, employees or representatives, or the attorney general or any circuit solicitor, from enforcing any of the provisions of this Act, or any rule, regulation or order made hereunder, except after due notice to the members of the Board, and to all other defendants, and after a hearing at which it shall be clearly shown to the court that the act done or threatened is without sanction of law, and that, if enforced against the complaining party, will cause an irreparable injury. The order or decree of the court granting temporary injunctive relief shall state the nature and extent of the probable invalidity of any provision of this Act, or of any rule, regulation or order made hereunder, involved in such suit, and shall also contain a clear statement of the probable damage relied upon by the court as justifying the temporary injunctive relief. (b) No temporary injunction of any kind, including a temporary restraining order,

against the Board or the members thereof, or its agents, employees, or representatives, or the attorney general, or any circuit solicitor shall become effective until the plaintiff shall execute a bond to the state with sufficient surety in an amount to be fixed by the court, reasonably sufficient to indemnify all persons who may suffer damage by reason of the violation *pendente lite*, by the complaining party, of the provisions of this Act, or of any rule, regulation or order, complained of. Such bond shall be approved by the judge of the court in which the suit is pending, and the court may, from time to time, on motion and with notice to the parties increase or decrease the amount of the bond, and may require new or additional sureties as the facts may warrant. Such bond shall be for the use and benefit of all persons who may suffer damage by reason of the violation *pendente lite* of this Act, provision, rule, regulation or order complained of in such suit, and any person so suffering damage may bring suit on such bond before the expiration of six months after any provision of this Act, or any rule, regulation or order complained of shall be finally held to be valid, in whole or in part, or such suit against the Board or the members thereof, shall be finally disposed of.

Section 11. Whenever it shall appear that any person is violating or threatening to violate any provision of this Act, or any rule, regulation or order made hereunder, and unless the Board, without litigation, can effectively prevent further violation or threat of violation, then the Board, through the Attorney General, who may call to his assistance the Circuit Solicitor of the circuit in which suit is instituted, shall bring suit in the name of the State of Alabama against such person in the circuit court in the county of the residence of the defendant, or, if there be more than one defendant, in the circuit court of the county of the residence of any of them, or in the circuit court of the county in which such violation is alleged to have occurred, to restrain such person from continuing such violation or from carrying out the threat of violation. In such suit the Board, in the name of the State of Alabama, may obtain such injunctions, prohibitory and mandatory, including temporary restraining orders and temporary injunctions, as the facts may warrant.

Section 12. In any suit where the Board, in the name of the State, seeks enforcement of this Act, or of any rule, regulation or order issued thereunder, as provided in Section 11 of this Act, or in any suit where an interested party seeks to test the validity of, or enjoin the enforcement of any prior issue of this Act, or any rule, regulation or order issued hereunder, as provided in Section 9 of this Act, either party shall have the right of an immediate appeal to the Supreme Court from any judgment or order therein granting or refusing an injunction whether temporary restraining

order, temporary injunction, permanent injunction, or other character of injunctive relief, or from any order granting or overruling a motion to dissolve such injunction. The manner of presenting any appeal as herein provided shall be governed by the provisions of the laws of the State of Alabama regulating appeals in injunction proceedings.

Section 13. Nothing in this Act contained or authorized, and no suit by or against the Board, and no penalties imposed or claimed against any person for violating any provision of this Act, or any rule, regulation or order issued hereunder, and no forfeiture, shall impair or abridge or delay any cause of action for damages which any person may have or assert against any person violating any provision of the Act, or any rule, regulation or order issued hereunder. Any person so damaged by the violation may sue for and recover such damages as he may show that he is entitled to receive. In the event the Board should fail to bring suit to enjoin any actual or threatened violation of any provision of this Act or of any rule, regulation or order made hereunder, then any person or party in interest adversely affected by such violation, or threat thereof, and has requested the Board to sue in the name of the State, may, to prevent any or further violation, bring suit for that purpose in any court in which the Board could have brought suit. If, in such suit, the court holds that injunctive relief should be granted, then the State shall be made a party and shall be substituted by order of the court for the person who brought the suit and the injunction shall be issued as if the state had at all times been the complaining party.

Section 13.1. The Oil and Gas Supervisor, with the concurrence of the Board, shall have the authority, and it shall be his duty, to employ all necessary personnel to carry out the provisions of this act. Such personnel shall be employed under, and subject to, the provisions of the Merit System Act.

Section 13.2. For the purpose of defraying the expenses connected with the administration and enforcement of this act, including the expenses of the inspections, tests, analyses and all other expenses connected with the supervision and protection of crude petroleum oil and natural gas in the State of Alabama, a charge of two per cent (2%) of the gross casinghead value of the crude petroleum oil or natural gas produced and sold from any well or wells in the State of Alabama shall be paid to the Department of Revenue, as herein provided.

Section 13.3. It shall be the duty of every person producing and selling crude petroleum oil or natural gas from any well or wells in the State of Alabama to keep and preserve such suitable records, of the amount of all such crude petroleum oil or natural gas produced and sold, as may be necessary to determine the

amount of the charge for which he is liable under the provisions of this act. It shall be the further duty of every such person to file with the Department of Revenue, not later than the tenth day of each month, a return, verified by oath, showing the amount of crude petroleum oil or natural gas produced and sold during the preceding month, and to compute the amount of the tax charged against him in accordance with the provisions of this act, and to transmit to the office of the Department of Revenue with such return a remittance in the form required by the Department of Revenue, covering the tax chargeable against him. The return shall contain such other information and shall be in such form as the Department of Revenue shall designate.

Section 13.4. In the event that any collection of charges is improperly made in an effort to enforce the provisions of this act, either as a result of a mistake of law or fact, the amount so paid may be recovered in the same manner as is provided by law for the recovery of taxes erroneously paid directly to the Department of Revenue.

Section 13.5. Any person who fails to pay the charge herein levied within the time required by this act, shall pay, in addition to such charge, a penalty of ten per cent (10%) of the amount of the charge due, together with interest thereon at the rate of one-half of one per cent ($\frac{1}{2}$ of 1%) per month, or fraction thereof, from the date at which the charge herein levied became due and payable, such penalty and interest to be assessed and collected as a part of the charge itself.

Section 13.6. Any person who fails to make the returns herein required shall be given written notice by the Department of Revenue, by registered mail, to make such returns forthwith, and if such person fails or refuses to make such return or returns within thirty days from the date of such notice, then the Department of Revenue shall make the return for such person upon such information as it may reasonably obtain, and shall assess the charges due thereon, and shall add a penalty, for failure to make such return and payment, of twenty-five per cent (25%) of the charge due as assessed by the Department of Revenue, and interest at the rate of one-half of one per cent ($\frac{1}{2}$ of 1%) per month, or fraction thereof, from the date such charges were due. Provided, that the Department of Revenue, if a good and sufficient reason is shown for such delinquency, may waive or remit the twenty-five per cent (25%) penalty, or a portion thereof.

Section 13.7. The charge herein imposed, together with all interest and penalties imposed by this act, shall be a lien upon the property of any person subject to the provisions of this act, and the provisions of the Revenue Laws of the State of Alabama applying to liens for license taxes shall apply fully to the charges herein

imposed. Such charges, together with interest and penalties, shall constitute a debt due the State of Alabama and may be collected by civil suit, in addition to the methods herein provided.

Section 13.8. All moneys so collected shall be paid into the State Treasury and there kept separate from other State funds in a fund to be known as the 'Oil and Gas Fund'. Such 'Oil and Gas Fund' shall be expended by the Oil and Gas Supervisor, with the approval of the Governor, only for effectuating the purpose of this act.

Section 14. Any person of whom an oath or affirmation shall be required under the provisions of this Act, or by any rule, regulation or order of the Board, who shall wilfully swear or affirm falsely in regard to any matter or thing respecting which such oaths or affirmation is required; or any person who, for the purpose of evading any rule, regulation or order made thereunder, shall intentionally make or cause to be made any false entry or statement of fact in any report required to be made by this act or by any rule, regulation or order made hereunder; or who, for such purpose, shall make or cause to be made any false entry in any account, record or memorandum kept by any person in connection with the provisions of this Act or of any rule, regulation or order made thereunder; or who, for such purpose, shall omit to make or cause to be omitted, full, true and correct entries in such accounts, records, or memoranda, of all facts and transactions pertaining to the interest or activities in the oil and gas industry of such person as may be required by the Board under authority given in this Act or by any rule, regulation or order made hereunder, or who, for such purpose, shall remove out of the jurisdiction of the state or mutilate, alter or by any other means falsify any book, record or other paper, pertaining to the transactions regulated by this Act or by any rule, regulation or order made hereunder, shall be deemed guilty of a misdemeanor and shall be subject, upon conviction in any court of competent jurisdiction, to a fine of not more than Five Hundred (\$500) Dollars, or imprisonment in the county jail for a term of not more than six (6) months, or to both such fine and imprisonment.

Section 15. (a) Any person who violates any provision of this Act, or any rule, regulation or order of the Board made hereunder, shall, in the event a penalty for such violation is not otherwise provided for herein, be subject to a penalty of not to exceed One Thousand (\$1,000) Dollars a day for each and every day of such violation, and for each and every act of violation, such penalty to be recovered in a suit in the circuit court of the county where the defendant resides or in the county of the residence of any defendant if there be more than one defendant, or in the circuit court of the county where the violation took place. The place of suit shall be

selected by the Board, and such suit, by direction of the Board, shall be instituted and conducted in the name of the State by the Attorney General or under his direction by the Circuit Solicitor of the circuit in which the suit is instituted. (b) Any person wilfully aiding or abetting any other person in the violation of any provision of this Act, or any rule, regulation or order made hereunder, shall be subject to the same penalties as are prescribed herein for the violation by such other person.

Section 16. That Sections 5085, 5086, 5087, 5088, 5089, 5090, 5091, 5092, 5093, 5094, 5095, 5096, and 5097 of the 1923 Code of Alabama be and the same are hereby repealed, and all other laws or parts of laws in conflict with this Act, be and the same are hereby repealed.

Section 17. It is hereby declared to be the legislative intent to enact each separate provision of this Act independently of all other provisions, and the fact that any section, word, clause, sentence or part of this Act shall be declared unconstitutional shall in no event affect any other section, word, clause, sentence or part thereof unless otherwise stated herein.

Section 18. This Act shall take effect immediately upon its passage and approval by the Governor.

Approved July 10, 1940.

No. 646)

(S. 374—Harris

AN ACT

To amend Section 7028 of the Code of Alabama of 1923, by providing that Railroad Companies may own and operate motor vehicles and aeroplanes for the transportation of persons or property, and may acquire property, rights and franchises of others engaged in such transportation, and may acquire and own capital stock of corporations and may enter into agreements with others engaged in or authorized to engage in such transportation; and providing regulations governing such transportation.

Be it Enacted by the Legislature of Alabama:

Section 1. That Section 7028 of the Code of Alabama of 1923 be amended to read as follows: 7028 (3494) RAILROADS TO ACQUIRE AND OPERATE STEAMBOATS, ETC.—Railroad Companies, and mining, manufacturing, and quarrying companies may contract, purchase, or otherwise acquire, own, operate, and maintain steamboats, barges, ships, and other vessels for transportation of freight and passengers on the navigable waters of this state, or any other state or foreign country and on the seas; and Railroad Companies may purchase or otherwise acquire, own, maintain and operate motor vehicles for the transportation of persons or property, or both, upon the highways of this State; and may

purchase or otherwise acquire, own, maintain and operate aeroplanes for the transportation of persons or property, or both, in the air, and may purchase, lease or otherwise acquire and own the property, rights and franchises of any individual, firm, partnership, or other association of persons, or corporation, engaged in the transportation of persons or property, or both, by motor vehicle on the highways or by aeroplanes in the air; and may subscribe to and may acquire and own the capital stock of any such corporation, and may enter into any agreement or arrangement, not inconsistent with law, with any individual, firm, partnership, or other association of persons, or corporation, engaged in, or authorized to engage in, any of said methods of transportation; provided, however, that any Railroad Companies exercising in this State the powers herein granted shall, in their operation of motor vehicles, be subject to all the laws of this State applicable to or authorizing, regulating and governing such motor carriers and their business, or prescribing the condition under which operators of motor vehicles may operate such vehicles on the highways of this State. And all Railroad Companies organized under the laws of other states, but authorized to do business in this State, may exercise in this State the powers hereinabove granted; subject, however, to the limitations hereinabove set forth; provided that before operating any such motor vehicles upon the highways of this State, such Railroad Companies must procure a certificate of convenience and necessity covering such operations.

Approved July 10, 1940.

No. 648)

(S. 444—Hildreth

AN ACT

To require the county governing body of each county in which a circuit solicitor, deputy circuit solicitor, or an assistant deputy circuit solicitor resides, to provide such circuit solicitor, deputy circuit solicitor, or assistant deputy circuit solicitor, with adequate office space or rooms; and to provide that the State shall furnish such offices and officers with telephone service, stationery, stamps, and other necessary equipment for the use of such offices and officers; and to make an appropriation therefor.

Be it Enacted by the Legislature of Alabama:

Section 1. That the several counties of the State are hereby authorized, directed, and required to provide suitable offices for the use and occupancy by the circuit solicitors, deputy circuit solicitors, and assistant deputy circuit solicitors, in the county where such officers reside; and the State shall furnish such offices and officers with telephone service, stationery, stamps, and other necessary equipment for the use of such offices and officers.

Section 2. That there is hereby appropriated annually out of the General Fund in the State Treasury, a sum of money sufficient to pay the expenses incurred by the State under the provisions of this act.

Section 3. That this Act shall become effective upon its passage and approval by the Governor.

Approved July 10, 1940.

No. 649)

(S. 484—Hare

AN ACT

Authorizing the establishment of a State Crop Improvement Committee, whose duties it shall be to appoint and designate an agency or agencies of seed producers within the State of Alabama for the purpose of promoting production of pure seed of superior varieties; to certify seed and plant parts; authorizing the certification of seeds or plant parts; to regulate the relations of said Committee to its certifying agents and its financial responsibility therefor; to provide for the manner and form of certification; authorizing the agency or agencies designated by the said Committee to make rules and regulations; and to provide penalties for violation of the Act.

Be it Enacted by the Legislature of Alabama:

Section 1. A State Crop Improvement Committee is hereby established, to be composed of the Director of the Alabama Extension Service, the Director of the Alabama Experiment Station, the State Commissioner of Agriculture, and the State Supervisor of Vocational Agriculture, and is hereby authorized and empowered to designate an agency, or agencies, of seed producers, within the State of Alabama for the purpose of setting certain standards, making requirements, and forms of and for the certification of seed and plant parts of crops intended for propagation or sale or to be sold or offered for sale within the State.

Section 2. A member of the Committee shall hold office so long as he shall retain the office by virtue of which he shall be serving on the Committee. A majority of the Committee shall constitute a quorum, and the concurrence of a majority in any matter within their duties shall be required for its determination.

Section 3. Every person, firm, association, or corporation who shall issue, use or circulate, any certificate, advertisement, tag, seal, poster, letterhead, marking, circular, written or printed or otherwise reproduced presentation or description of or pertaining to seeds or plant parts intended for propagation or sale, or sold or offered for sale wherein the words "Alabama state certified," "state certified", "Alabama certified", "certified", "registered", "foundation", "pedigreed", or similar words or phrases are used or employed, or wherein are used or employed signs, symbols, maps, diagrams, pictures,

words or phrases expressly or impliedly stating or representing that such seeds or plant parts comply with or conform to the standards or requirements recommended or approved by the agency or agencies designated by the State Crop Improvement Committee of the State of Alabama, shall be subject to the provisions of this Act. Every issuance, use or circulation of any certificate or any other instrument, as in this section above described, shall be deemed to be "certification" as that term is employed in this Act.

Section 4. The State Crop Improvement Committee shall designate not more than one agency for the certification of any one specified crop within the State of Alabama. No certification, within the provisions of this Act shall be made except by or on the authority of said State Crop Improvement Committee.

Section 5. The agency or agencies designated by the State Crop Improvement Committee shall adopt an official seal, or trade-mark, and an official tag and register them with the State Commissioner of Agriculture. The official tag shall provide for the producer's signature as his guarantee that he has complied with the terms of certification as evidenced by said tag.

Section 6. Seed, seeds, or plant parts certified by the designated agency shall be tagged with the official tag, and the official seal or trade-mark shall be securely attached to or printed on said tag. It shall be unlawful for any person, firm, corporation, cooperating agency, or agencies, or others to use the official tag and the official seal or trade-mark on seed, seeds, or plant parts offered for sale, barter, or exchange within the State of Alabama, except those certified by the designated agency.

Section 7. The agency or agencies designated by the State Crop Improvement Committee of the State of Alabama must file with the Commissioner of Agriculture information showing that said agency or agencies has been duly authorized by said State Crop Improvement Committee as the certifying agency. Evidence of said authority must appear on all seeds or plant parts certified by said agency or agencies by use of the official tag and the official seal or trade-mark.

Section 8. The agency or agencies designated by the State Crop Improvement Committee of the State of Alabama may recognize the certification of officially authorized certifying agencies in states and territories other than Alabama and in countries, provinces, and territories other than those under the jurisdiction of the United States Government.

Section 9. The agency or agencies designated by the State Crop Improvement Committee of the State of Alabama may withhold certification from any grower of seeds or plant parts who is engaged in or attempting to engage in any dishonest practices for the purpose of evading the provisions of this Act, including standards, rules, and regulations laid down by the agency or agencies desig-

nated by the State Crop Improvement Committee to cover certificates.

Section 10. It shall be unlawful for any person, firm, association, or corporation to issue, make, use or circulate any certification, or evidence of certification as defined in this act, without the authority and approval of the duly authorized agency or agencies of the State Crop Improvement Committee as herein provided. Every person, firm, association, or corporation who shall violate any of the provisions of this Act, or any of the rules and regulations based hereon, shall be deemed guilty of a misdemeanor.

Section 11. The agency or agencies designated by the State Crop Improvement Committee shall call upon the Alabama State Board of Agriculture to investigate and prosecute any violation of this Act; Provided, that said Alabama State Board of Agriculture may on its own initiative investigate and prosecute any violations of the provisions of this Act.

Section 12. The agency or agencies designated by the State Crop Improvement Committee is hereby authorized to make such rules and regulations as are necessary to carry out the intent and purposes of this Act. Provided however that any fees or charges that may be imposed for the purpose of carrying out the provisions of this Act must not be of an amount greater than necessary to cover actual cost of issuing certificates, said fees so levied shall be paid to the Department of Agriculture of the State of Alabama, to be used for the purposes of this Act.

Approved July 10, 1940.

No. 650)

(S. 498—Lusk

AN ACT

To provide for the distribution of the 1940 Code of Alabama, abridgments, editions or portions thereof; to provide for the conservation of the sets distributed; to authorize the sale thereof and to provide an appropriation to carry out the purposes of this act.

Be it Enacted by the Legislature of Alabama:

Section 1. That it shall be the duty of the Secretary of State on publication and delivery to the State, to transmit sets of the 1940 Code of Alabama to the following agencies, departments, institutions, bureaus, boards, commissions and offices:—(1) One set to the Congressional Library; (2) One set to the custodian of the Law Library of the court of last resort of every state and territory extending like courtesy to this state, upon the approval of the Marshal of the Supreme Court of Alabama of the request therefor; (3) One set to the library of the University of Alabama and one set to the Land Commissioner of the University of Alabama; (4)

One set to each member of this Legislature, including the Lieutenant Governor; (5) One set to the librarian of the Alabama Polytechnic Institute; (6) One set to the librarian of Alabama College; (7) One set to the librarian of each Normal School; (8) Ten sets to the librarian of the Supreme Court for the use of the library; (9) Two sets to the Department of Archives and History; (10) One set to the head of every department in the State Capitol and to the various bureaus, boards and commissions of the State upon application therefor approved by the Governor; (11) One set to every sheriff; (12) One set each to every circuit solicitor, deputy solicitor and county solicitor; (13) One set to the governing body of each county for the use of said governing body and for the use of the tax assessor, tax collector, superintendent of education, county treasurer or depository and other county officers to whom distribution is not otherwise provided for; (14) One set to the clerk of the circuit court of each county and in counties having two court-houses one set for the office of the circuit clerk maintained in each of said court houses; (15) One set to the register in equity of the circuit court in every county and in counties having two court-houses one set for the office of the register maintained in each of said courthouses, provided, however, that in counties where the offices of circuit clerk and of register in equity are held by the same person, only one set shall be provided; (16) Two sets to the probate judge of each county, one of which shall be for the use of the probate judge and the probate court and the other of which shall be kept in the office of the probate judge for the use of any and all justices of the peace or courts exercising the jurisdiction of justices of the peace in said county, whose final jurisdiction in the trial of misdemeanors is limited to one precinct. The judges of probate of the several counties shall allow justices of the peace and judges of such courts to take volumes of said sets from the probate office of the county, taking receipts therefor from such justices or judges and shall require that the same be returned to the probate office of the county within seven days of the date upon which the same were taken therefrom under said receipt. Any justice of the peace or inferior court judge who takes from the office of the probate judge a volume of said code and who fails or refuses, for any cause whatsoever, including destruction, loss or theft, to return same within seven days of the date on which he takes the said volume, and gives receipt therefor, shall be liable for the sales price of the said volume, as fixed by the Governor. In the event of such failure or refusal to return a volume or volumes taken from the office of the probate judge as herein provided for, the circuit solicitor for said county forthwith, in the name of the State, shall commence and prosecute action against the said justice of the peace or inferior court judge and the sureties upon his official bond in any court having jurisdiction thereof for the recovery of the value of said

volume which said justice of the peace or inferior court judge fails or refuses to return to the probate judge of the county as herein provided for. Any moneys collected hereunder shall be covered into the General Fund of the State; (17) Fifteen sets to the Attorney General of the State; (18) One set to every justice of the Supreme Court and every judge of the Court of Appeals, and to every judge of the circuit court, law and equity court and court of record exercising final jurisdiction in more than one precinct of the county, and to every judge of a statutory inferior court exercising county-wide jurisdiction. Provided, however, that in those counties in the State in which the probate judge is ex-officio judge of the county court or other court inferior in jurisdiction to the circuit court, the transmittal of one set of said annotated code to the probate judge of said court shall suffice; (19) One set to the office of the Secretary of the Senate for the use of the Senate; and one set to the office of the Clerk of the House of Representatives for the use of the House of Representatives; (20) One set to the mayor or other executive or presiding officer of each municipality for the use of such municipality.

Section 2. The Secretary of State shall set aside in the place provided for the storage of the sets of said annotated code two hundred sets thereof, which he may distribute to any public agency or officer applying therefor upon the approval of the Governor of said application.

Section 3. Duplicate sets of said annotated code, to replace sets lost or destroyed, without fault of the custodian, may be furnished to any officer entitled thereto upon application to the Secretary of State, provided said application is approved by the Governor.

Section 4. The Secretary of State is hereby authorized to sell sets of said annotated code to any person, firm, or corporation within or without the State, so long as the same are available for sale, at uniform cash prices as may be determined upon and fixed by the Governor. Provided, however, that the price fixed by the Governor for sales to persons, firms or corporations shall, in no event, be less than \$67.50 per set. Not more than three sets of said annotated code shall be sold to any one person, firm, or corporation. The Governor may fix one price for the sale of sets of said annotated code within the State of Alabama and a larger price for the sale of said sets without the State of Alabama.

Section 5. Except those sets of Codes distributed to members of the Legislature and the Lieutenant Governor, the title to all of the sets of the annotated code, the distribution of which to officers and offices of the State and the several counties and municipalities thereof as hereinabove provided for, shall forever remain in the State of Alabama and said sets shall never become the personal property of any person or corporation, however long they shall have had possession thereof. Officers, employees

and agents of the State and of the several counties thereof to whom a set of said annotated code is transmitted by the Secretary of State under the provisions of this act, upon the severance of their connection with their offices, employments or agencies shall deliver over to their successors, if any, and if there are no successors, to the Secretary of State or to the probate judge of the county in which such office, employment or agency exists the set or sets of said annotated code in their possession, taking duplicate receipts therefor, one of which said receipts, if issued by the probate judge, shall be mailed to the Secretary of State. Sets coming into the custody of the probate judge by the next preceding sentence hereof shall be reported by him to the Secretary of State who shall provide for their return to the office of the Secretary of State. Upon the failure of any officer, employee or agent to comply with the provisions of this section relative to the return of sets of annotated code in their custody they and the sureties upon their official bonds, if any, shall be liable for the value of the sets or volumes thereof not returned as herein required, to be recovered by action in the name of the State commenced and prosecuted by the circuit solicitor of the county of their respective residences, in any court having jurisdiction of said suit.

Section 6. It shall be the duty of the Secretary of State to take receipts from each public official of the State and of the several counties to whom he distributes sets of said annotated code. And, in the event that the Secretary of State shall transmit sets for the use of all of the officers of a county to one officer of the county for distribution to the several officers in said county entitled thereto, the officer making such distribution shall take receipts from the officers, agents or employees in said county to whom he distributes said sets, showing the number of sets distributed, and the date of distribution, which said receipts must be witnessed by the officer distributing the same, and said receipts shall forthwith be sent by registered mail to the office of the Secretary of State. The Secretary of State shall register in a well-bound book, which shall be a permanent record in his office, the name, official title and address of every public official, employee or agent of the State and of the several counties thereof to whom has been distributed sets of said annotated code under the provisions of this Act, and who has signed a receipt therefor; and shall record the date of said distribution and the number of sets distributed to each such officer, agent, or employee. Upon the return of any sets by officers, agents, and employees of the State or of any county thereof, as herein provided, the Secretary of State shall note in said record book the date of said return and the number of sets or volumes returned.

Section 7. That the Governor of the State of Alabama be and he is hereby authorized to contract, at a price not to exceed \$7500.00, for the preparation and publication of a compilation of

those sections of the Code of Alabama which, in the opinion of the Attorney General, are essential to the effective performance of the duties of the justices of the peace of this state. Such compilation shall be completely indexed and may include the annotations to the sections of the Code included in the compilation. The compilation, when printed, shall be distributed to the commissioned justices of the peace, including notaries public ex-officio justices of the peace and judges of inferior courts created or established in lieu of such courts, without charge in the same manner as the Code of Alabama is distributed to other officials.

Section 8. There is hereby appropriated, out of the moneys in the State Treasury not otherwise appropriated, such amounts of money as are, or may be, necessary to carry out the provisions of this act relating to the distribution of the sets of said code to the several State and County officers, agents and employees.

Section 9. That all laws and parts of laws in conflict with the provisions of this act be and the same are hereby repealed.

Section 10. That this act shall be effective from and after its passage and approval by the Governor or its otherwise becoming a law.

Approved July 10, 1940.

No. 651)

(S. 506—McCall, Weatherford and Simpson

AN ACT

To further regulate the employees in the service of the State of Alabama; to provide for the reemployment or restoration of status of such employees who have enlisted or served in any of the armed forces of the United States.

Be it Enacted by the Legislature of Alabama:

Section 1. That any person who, at the time he is called into active service in any of the armed forces of the United States or at the time when he enters into the active service in any of the armed forces of the United States, has any status whatsoever under the Merit System Act approved March 2, 1939, and amendments thereto, in the Classified Service as defined by said act, shall not thereby lose his status by reason of his service in any of the armed forces of the United States.

Section 2. Upon application, in writing, of any such person, which application shall be directed to and filed with the State Director of Personnel, the State Personnel Board shall enter upon its minutes an order or memorandum granting to such applicant an indefinite leave of absence for such length of time as such applicant shall honorably serve in any of the armed forces of the United States.

Section 3. At any time before the expiration of twelve months after the termination of the period of honorable service of such applicant in any of the armed forces of the United States, he may apply in writing, which application shall be directed to and filed with the State Director of Personnel, for the termination of his leave of absence. Within thirty days of the filing of such application, the State Personnel Board shall consider the same, and, if the mental and physical condition of the applicant are such that he is not thereby disqualified to perform the duties of such position from which he had leave of absence, it shall thereupon order his restoration to said position, effective upon the date on which the said order is made and entered. Such restoration shall be made, as herein provided, notwithstanding the fact that it results in the lay-off of the incumbent who is serving in such position.

Section 4. That this act shall become effective upon its passage and approval by the Governor or its otherwise becoming a law.

Approved July 10, 1940.

No. 652)

(S. 515—McCall

AN ACT

To authorize the Courts of County Commissioners, Boards of Revenue, or Courts of like jurisdiction in all counties of the State now having or which shall hereafter have a population of not less than 100,000 nor more than 175,000 according to the last or any succeeding Federal Census to furnish the public buildings, including courthouses, jails, and almshouses, and the various county officials' offices located within such counties and the several county officers with equipment, conveniences, office supplies and necessities.

Be it Enacted by the Legislature of Alabama:

Section 1. That the Courts of County Commissioners, Boards of Revenue or courts of like jurisdiction in all counties in the State now having or which shall hereafter have a population of not less than 100,000 nor more than 175,000 according to the last or any succeeding Federal Census are hereby authorized and empowered to furnish the public buildings, such as courthouses, jails, almshouses and other buildings or offices necessary for housing public officials located within such counties, and the officers of such counties, with such equipment, conveniences, office supplies, as well as necessities for the proper dispatch of the business of such buildings, offices and officers. The Courts of County Commissioners, Boards of Revenue or courts of like jurisdiction are hereby authorized and empowered, in their discretion, to furnish all such equipment, conveniences, office supplies, and necessities as may be necessary, proper and convenient for the conduct of the public business of said counties.

Section 2. All laws or parts of laws in conflict with the provisions of this Act be, and the same are hereby expressly repealed.

Section 3. That this Act shall go into effect upon its passage and approval by the Governor or its otherwise becoming a law.

Approved July 10, 1940.

No. 654)

(H. 385—Beck

AN ACT

To appropriate out of any money in the State Treasury not otherwise now appropriated the sum of \$5,000 to place on the grounds of the building now being erected in Montgomery, Alabama, known as the Memorial Building a monument dedicated to the memory of the Spanish-American War Veterans of Alabama, and World War Veterans of Alabama.

Be it Enacted by the Legislature of Alabama:

Section 1. There is hereby appropriated out of any money in the State Treasury not otherwise now appropriated the sum of \$5000 to be expended by the Governor for the purpose of erecting on the grounds of the building now being erected in Montgomery, Alabama, known as the Memorial Building a monument dedicated to the memory of the Spanish-American War Veterans of Alabama, and World War Veterans of Alabama, and each of said monuments shall not cost over Twenty-five Hundred Dollars (\$2500.00).

Section 2. Be it further enacted that the State Comptroller is hereby empowered and directed to draw his warrant in the sum of \$5000.00 to the Governor for said purpose.

Section 3. This Act shall become effective upon its passage and approval by the Governor, or is otherwise enacted into law.

Approved July 5, 1940.

No. 655)

(H. 470—Miller

AN ACT

To authorize and provide for the payment of \$400 for the relief of Sam Little of Sumter County, Alabama, who was injured on the 20th day of September, 1936, while serving a sentence in the State Penitentiary from which he suffered permanent injuries, and provide the fund out of which said amount shall be paid.

WHEREAS, Sam Little, while serving a sentence in the State Penitentiary on conviction of a felony in Sumter County, Alabama, on the 20th day of September, 1936, received injuries while working on a State bridge near Nanafalia, Alabama, painting said bridge, he was instructed to get upon a scaffold which was attached to the bridge by ropes, and while upon said scaffold, one of the ropes broke and he was thrown about fifty feet to the ground, thereby breaking his leg and causing various other injuries, which are permanent injuries, and,

WHEREAS, no compensation has been paid to the said Sam Little for said injuries;

Be it Enacted by the Legislature of the State of Alabama:

Section 1. That the State Comptroller be, and hereby is authorized and directed to issue his warrant on the State Treasury in favor of Sam Little for the sum of \$400, which shall be paid by the State Treasurer out of any funds in the State Treasury not otherwise appropriated.

Section 2. That the Comptroller charge said sum to the fund of the State Highway Department of the State of Alabama.

Section 3. This act shall take effect upon its passage and approval by the Governor.

Approved July 5, 1940.

No. 656)

(H. 593—Davis of Madison

AN ACT

To authorize and provide for the payment of the sum of \$250.00 for the relief of Jacob Laagar of Madison County, Alabama, who was permanently injured while employed by the State of Alabama in the line and scope of his employment.

WHEREAS, Jacob Laagar, a citizen of the State of Alabama, was permanently disabled without any fault on his part while employed by the State of Alabama in August, 1935, in that, while working on a rock crusher in Madison County and while loading rock on a truck in said county a rock fell from said truck and crushed and permanently disabled the forefinger and middle finger of his right hand and partially disabled the entire right hand and caused him much suffering and expense, and

WHEREAS, there is no provision in the law to compensate him, therefore

Be it Enacted by the Legislature of Alabama:

Section 1. There is hereby appropriated out of the State Treasury the sum of \$250.00 to be paid to the said Jacob Laagar for his relief.

Section 2. That immediately after the passage of this act and its approval by the Governor, the State Comptroller shall draw a warrant upon the State Treasurer and the State Treasurer shall pay from funds not otherwise appropriated in the State Treasury to the said Jacob Laagar of Madison County, Alabama, the sum of \$250.00.

Section 3. That this Act shall go into effect immediately upon its passage and approval by the Governor.

Approved July 5, 1940.

No. 657)

(H. 614—Walden

AN ACT

To prevent the use of any state-owned property of any character or description, by any state officer or any state employee, for the promotion or advancement of the interest of any candidate for the nomination or election to any public office of the State of Alabama, and to provide penalty for its violation.

Be it Enacted by the Legislature of Alabama:

Section 1. After the passage of this Act, it shall be unlawful for any officer or employee of the State of Alabama to use or to permit to be used any state-owned property of any character or description including stationery, stamps, office equipment, office supplies, automobiles, or any other property, used by him, in his custody, or under his control for the promotion or advancement of the interest of any candidate for the nomination or election to any public office of the State of Alabama.

Section 2. It shall be unlawful for any officer or employee of the State of Alabama to transport, cause to be transported, or to allow to be transported in any automobile or other vehicle belonging to the state or any private owned vehicle while mileage is paid by the state any campaign literature or propaganda which promotes, or tends to promote, his candidacy, or the candidacy of any other person, for the nomination or election to any office of the State of Alabama.

Section 3. The object and purpose of this Act is to place all candidates for any State office upon an equality, by the prevention of the use of any state-owned property in the promotion or advancement of the candidacy of any individual to the nomination or election to any public office of the State of Alabama.

Section 4. It shall be the duty of all officers, heads of departments, and all other individuals and boards charged with the duty of appointing individuals to state office or employing any individual in the state, if any part of the compensation is to be paid by the state, to immediately discharge all such officers or employees so appointed, who violate any of the provisions of this act.

Section 4. Any officer or employee of the State of Alabama who violates any of the provisions of this Act shall be subject to impeachment and removal from office and shall also be guilty of a misdemeanor and, upon conviction thereof, shall be punished in the manner provided by law, for such offences.

Section 6. All laws and parts of laws in conflict with the provisions of this Act are hereby expressly repealed.

Section 7. If any of the sections, provisions, or clauses of this Act shall be held unconstitutional, the remaining sections, provisions and clauses shall remain in full force and effect.

Approved July 5, 1940.

No. 658)

(H. 628—Dominick

AN ACT

To Amend Sub-division (c) of Section 70, of Article 2 of an Act entitled an Act, "To provide a general system of legislation pertaining to public roads, highways and bridges, including therein the establishment of a State Highway Department and State Highway Commission; to create the office of Alabama Highway Director in Alabama; to define and regulate the powers, duties and authority of the State Highway Commission and of local authorities, boards of revenue, courts of county commissioner, municipalities or like governing bodies; to provide authority and empower the Board of Administration to make agreements and contracts with the State Highway Commission for convict labor and let contracts for signs, advertising, etc., on highways; to define and provide rules of the road, including traffic regulations, penal violations, duties of owners and drivers and the regulation as to size, weight and equipment of motor vehicles moving over, along, or upon such roads; to provide for the establishment, discontinuance, working and maintenance of public roads, bridges and ferries; to provide for the establishment and maintenance of private roads; to provide for State Bonds for construction and maintenance of roads, issue and sale of; Good Roads Day established; Offenses concerning toll bridges, turnpikes, and causeways; protecting bridges from floating logs and to provide against injury to mill dams, bridges, canals and road gates; to provide for working of public roads; persons liable and persons exempt from road duty; to provide for railroad tracks, bridges, viaducts and tunnels; and the repeal of all laws and parts of laws in conflict with the provisions of this Act, except such laws pertaining to revenue." Approved August 23, 1927.

Be it Enacted by the Legislature of Alabama:

Section 1. That Sub-division (c) of Section 70 of Article 2 of an Act entitled an Act, "To provide a general system of Legislation pertaining to public roads, highways and bridges, including therein the establishment of a State Highway Department and State Highway Commission; to create the office of Alabama Highway Director in Alabama; to define and regulate the powers, duties and authority of the State Highway Commission and of local authorities, boards of revenue, courts of County Commissioners, municipalities or like governing bodies; to provide authority and empower the Board of Administration to make agreements and contracts with the State Highway Commission for convict labor and let contracts for signs, advertising, etc., on highways; to define and provide rules of the road, including traffic regulations, penal violations, duties of owners and drivers and the regulation as to size, weight and equipment of motor vehicles moving over, along, or upon such roads; to provide for the establishment, discontinuance, working and maintenance of public roads, bridges and ferries; to provide for the establishment and maintenance of private roads; to provide for State Bonds for construction and maintenance of roads, issue and sale of; Good Roads Day established; Offenses concerning toll bridges, turnpikes and causeways; protecting bridges from floating

logs and to provide against injury to mill dams, bridges, canals and road gates; to provide for working of public roads, persons liable and persons exempt from road duty; to provide for railroad tracks, bridges, viaducts and tunnels; and the repeal of all laws and parts in conflict with the provisions of this Act, except such laws pertaining to revenue," approved August 23, 1927, be and the same is hereby amended so as to read as follows: "(c) The provisions of this Section shall not apply to the driver of any vehicle nor to any vehicle which is disabled while on the paved or improved or main traveled portion of a highway in such manner and to such extent that it is impractical to avoid stopping and temporarily leaving such vehicle in such position, and provided further that the provisions of this section shall not apply to any vehicle nor to the driver of any vehicle engaged in the business of carrying passengers for hire and operating over a fixed route and between regular termini operating under authority of the Interstate Commerce Commission of the United States or under authority of the Alabama Public Service Commission or any federal, state, or municipal authority while stopped on the right hand side of the highway to pick up or discharge passengers, provided a clear view of such vehicle may be obtained from a distance of 300 feet in each direction upon such highway, provided, however, that this Sub-division is subject to all provisions of Section 97 of this Article. Any person violating any provision of this Section shall be guilty of a misdemeanor and upon conviction, shall be punished as provided in Section 75 of this Article."

Section 2. This Act shall take effect immediately upon its passage and approval by the Governor.

Approved July 5, 1940.

No. 659)

(H. 656—Sightler

AN ACT

For the relief of the Pickwick Cafe, Inc. of Montgomery, Alabama, and to appropriate for the said Pickwick Cafe, Inc. the sum of \$285.93, said sum being a refund to the said Pickwick Cafe, Inc. of gross receipts taxes erroneously paid by said cafe to the State of Alabama for the months of January and February, 1937.

Be it Enacted by the Legislature of Alabama:

Section 1. That out of any funds of the State Treasury not otherwise appropriated, there is hereby appropriated the sum of \$285.93 for the relief of the Pickwick Cafe, Inc. of Montgomery, Alabama, said sum being a refund to the said Pickwick Cafe, Inc. of gross receipts taxes erroneously paid by the said Pickwick Cafe,

Inc. to the State of Alabama for the months of January and February, 1937.

Section 2. Be it further enacted that immediately upon the passage of this Act and its approval by the Governor, the State Comptroller shall issue his warrant upon the State Treasury in favor of the said Pickwick Cafe, Inc. of Montgomery, Alabama, in the sum of \$285.93, and deliver same to the said Pickwick Cafe, Inc.

Approved July 5, 1940.

No. 660)

(H. 666—Cobb

AN ACT

To submit to the qualified voters of the State of Alabama, at an election to be held on the First Tuesday after the first Monday in November, 1940, for their consideration, an amendment to the Constitution of Alabama, so as to authorize and empower the Legislature of Alabama, from time to time, by general or local laws, to fix, regulate and alter the fees, commissions, allowances and salaries, including the method or basis of their compensations, to be charged or received by Tax Assessors, Tax Collectors, Probate Judges, Circuit Clerks, Sheriffs, and Registers of the Equity Courts, and provide the method and basis of their compensation, provided the salary, fees or compensation of any officer named herein shall not be increased or diminished during the term for which he shall have been elected or appointed, after his election or appointment, in each of the following named counties: Etowah and Cherokee.

Be it Enacted by the Legislature of Alabama:

Section 1. That the following amendment to the Constitution of Alabama is hereby proposed to be submitted to the qualified voters of Alabama for their consideration, as hereinafter set forth, viz: The Legislature of Alabama may hereafter, from time to time by general or local laws, fix, regulate and alter the fees, commissions, allowances and salaries, including the method or basis of their compensation, to be charged or received by the Tax Assessors, Tax Collectors, Probate Judges, Circuit Clerks, Sheriffs, and Registers of the Equity Courts, and including the right to place any one or all of said officers on a salary and provide for the fees charged and collected by said officers to be paid into the treasury from which their salaries are paid, and provide the method and basis of their compensation, provided the salary, fees or compensation of any officer named herein shall not be increased or diminished during the term for which he shall have been elected or appointed, after his election or appointment, in the following named counties: Etowah and Cherokee.

Section 2. That it shall be the duty of the Governor of Alabama to give notice by proclamation to be published in one newspaper in

each County in the State of Alabama at least four successive weeks next preceding the date of the election on the amendment proposed by this Act to be submitted to the qualified voters of the State of Alabama for their consideration together with the proposed amendment.

Section 3. That, at an election to be held on the first Tuesday after the first Monday in November, 1940, an election shall be held for the vote of the qualified electors of the State of Alabama upon the proposed amendment. Upon the ballots used at such election shall be printed the following, viz: "Shall the following be adopted as an amendment to the Constitution of Alabama? The Legislature of Alabama may hereafter, from time to time by general or local laws, fix regulate and alter the fees, commissions, allowances and salaries, including the method or basis of their compensation, to be charged or received by the Tax Assessors, Tax Collectors, Probate Judges, Circuit Clerks, Sheriffs, and Registers of the Equity Courts, and including the right to place any one or all of said officers on a salary and provide for the fees charged and collected by said officers to be paid into the treasury from which their salaries are paid, and provide the method and basis of their compensation, provided the salary, fees or compensation of any officer named herein shall not be increased or diminished during the term for which he shall have been elected or appointed, after his election or appointment, in the following named counties: Etowah and Cherokee. Yes ----- No -----." The choice of the elector shall be indicated by a crossmark by him or her opposite the word expressing his or her desire.

Section 4. That there is hereby appropriated out of the General Funds, or any available funds of the State, such sums as may be necessary to defray the expenses of this election.

Section 5. The officers of such election shall open a poll for the vote of the qualified electors upon the proposed amendment. The election shall be held in all things in accordance with the law governing general elections, except that the expenses of said election shall be paid out of the State Treasury, provided the same can be paid by the State under the provisions of the Constitution. In the election upon the proposed amendment the votes cast thereat shall be canvassed, tabulated and the returns thereof be made to the Secretary of State and counted in the same manner as in elections for Representatives to the Legislature of Alabama, and if it shall thereupon appear that a majority of the qualified electors who voted upon the proposed amendment voted in favor of the same, such amendment shall be valid to all intents and purposes as a part of the Constitution of Alabama. The result of such election shall be made known by the proclamation of the Governor of Alabama.

Passed the House of Representatives July 2, 1940.

Passed the Senate July 2, 1940.

No. 661)

(H. 673—Hodo

AN ACT

To amend Sections 7542, 7543, 7550, 7555, 7566, 7573, 7584, 7587, 7589, 7590, 7591, 7592, 7593, and 7594 of the Code of Alabama of 1923; and to amend Sections 7547, 7563, 7567, and 7596 of the Code of Alabama of 1923, as amended by Act Number 29 of the General Laws of the Legislature of Alabama passed at the Extraordinary Session of 1936; and to repeal Sections 7595, and 8329 of said Code; to provide penalties for non-compliance with the provisions of this Act; to repeal all laws and parts of laws, general, special and local in conflict herewith; to provide that sections of this Act are separate and severable; to provide for the preservation of the right of action; and to provide for the effective date of this Act.

Be it Enacted by the Legislature of Alabama:

Section 1. That Section 7542 of the Code of Alabama of 1923 be amended to read as follows: 7542. LEGAL SERVICES.—No part of the compensation payable under this Law shall be paid to attorneys for the claimant for legal services unless upon the application of a claimant to a judge of the circuit court such judge shall order or approve of the employment of an attorney by the claimant, and in such event the judge when awarding compensation shall after inquiry and, if he deems it desirable, a full hearing thereon, fix the fee of the attorney for the claimant for his legal services in such amount as the judge shall deem reasonable, and the manner of its payment; but such fee shall not exceed fifteen per cent of the first three hundred and ten per cent of any sum in excess of three hundred dollars of the compensation awarded or paid.

Section 2. That Section 7543 of the Code of Alabama of 1923 be amended to read as follows: 7543. ARTICLES 1 AND 2 OF CHAPTER NOT APPLICABLE TO CERTAIN EMPLOYMENTS.—Articles 1 and 2 of this chapter shall not be construed or held to apply to any common carrier doing an interstate business while engaged in interstate commerce, or to domestic servants, farm laborers, or persons whose employment at the time of the injury is casual, and not in the usual course of the trade, business, profession or occupation of the employer, or to any employer, who regularly employs less than eight employees in any one business or to any county, city, town, village or school district. Any employer who regularly employs less than eight employees in any one business or any county, city, town, village or school district may accept the provisions of Articles 1 and 2 of this chapter by filing written notice thereof with the Department of Industrial Relations and with the probate judge of each county in which said employer is located or does business, said notice to be recorded by the judge of probate for which he shall receive the usual fee for recording conveyances, and copies thereof to be posted at the places of business of said employers and provided further, that said em-

ployers who have so elected to accept the provisions of Article 1 and 2 of this chapter may at any time withdraw the acceptance by giving like notice of withdrawal. In no event nor under any circumstances shall Articles 1 and 2 of this chapter apply to farmers and their employees.

Section 3. That Section 7550 of the Code of Alabama of 1923 be amended to read as follows: 7550. SETTLEMENTS BETWEEN PARTIES.—The interested parties shall have the right to settle all matters of compensation and all questions arising hereunder between themselves, and every settlement made hereunder shall be in amount the same as the amounts or benefits stipulated in this article. No settlement for an amount less than the amounts or benefits stipulated in this article shall be valid for any purpose unless a judge of the circuit court of the county where the claim for compensation under this chapter is entitled to be made, or upon the written consent of the parties, a judge of the circuit court of any county, determines that it is for the best interest of the employee or his dependents to accept a lesser sum and approves such settlement. The court shall not approve any such settlement unless and until it has first made inquiry into the bona fides of claimant's claim and the liability of the defendant, and if deemed advisable the court may hold a hearing thereon. Any settlements hereunder may be vacated for fraud; undue influence or coercion, upon application made to the judge approving the settlement, at any time not later than six months after the date of settlement. Upon such settlements being approved, judgment shall be rendered thereon and duly entered on the records of said court in the same manner and to have the same effect as other judgments or as an award if the settlement is not for a lump sum. The costs of the proceedings shall not exceed two dollars and shall be borne by the employer; such proceedings shall not be deemed subject to state trial, library or other tax, general or local. All moneys voluntarily paid by the employer or insurance carrier to an injured employee in advance of agreement or award shall be treated as advance payments on account of the compensation; to encourage advance payments it is expressly provided that such payments shall not be construed as an admission of liability, but shall be without prejudice.

Section 4. That Section 7555 of the Code of Alabama of 1923 be amended to read as follows: 7555. REMARRIAGE OF WIDOW: COMPENSATION TO CHILDREN.—In case of remarriage of a widow of an employee who had dependent children, the unpaid balance of compensation, which would otherwise become due her, shall be paid to such children; or may, on approval by the court, be paid to some suitable person designated by the court, for the use and benefit of such children; payment to such person shall discharge the employer from any further liability.

Section 5. That Section 7566 of the Code of Alabama of 1923 be amended to read as follows: 7566. WAITING PERIOD.—In cases of temporary total or temporary partial disability no compensation shall be allowed for the first seven days after disability, except as provided by Section 7567, nor in any case unless the employer has actual knowledge of the injury or is notified thereof within the period specified in Section 7568. Compensation shall begin with the eighth day after disability.

Section 6. That Section 7573 of the Code of Alabama of 1923 be amended to read as follows: 7573. PAYMENT IN LUMP SUM.—Where the amounts of compensation payable periodically hereunder have been agreed upon by the parties, and fixed by decision of the court; such periodic payments, upon agreement of the parties, may be commuted to one or more lump sum payments. Compensation due for death or permanent total disability, or for permanent partial disability resulting from total loss of hearing, or from the loss of an arm or hand, or a foot or a leg, or an eye, or of more than one such member, may be commuted only with the approval of the circuit court. In making such commutations, the lump sum payments shall, in the aggregate, amount to a sum equal to the present value of all future installments of compensation calculated upon a six per cent basis. The circuit court shall not approve any such commutation unless and until it appears and the court so finds that at least ten days prior to the date of such approval the Department of Industrial Relations has been informed by the employer or his insurance carrier by registered mail of the details of the proposed commutation and of the time and place when the commutation will be presented to the court for its approval; any authorized representative of the Department may appear at the hearing of such cause and shall have the right to offer evidence.

Section 7. That Section 7584 of the Code of Alabama of 1923 be amended to read as follows: 7584. EMPLOYER GIVEN RIGHT TO INSURE RISKS: SELF-INSURER: CONDITIONS.—(1) Option to insure risks.—Every employer who accepts the provisions of Articles 1 and 2 of this chapter relative to the payment of compensation may, at his option, insure and keep insured his liability thereunder in some insurance corporation, association, organization or insurance association or corporation or association formed of employers and workmen or formed by a group of employers to insure the risks under Article 2 of this chapter operating by the mutual assessment or other plans or otherwise, provided that such insurance association, organization or corporation shall have first had its contract and plan of business approved in writing by the Director of the Department of Commerce of Alabama and have been authorized by said Department of Commerce to transact the business of workmen's compensation

insurance in this State and under such charter or plan. Those writing such insurance shall in every case be subject to the conditions of this section hereinafter named. Nothing herein contained shall prevent an employer from insuring only a particular class or classes of employees or class, form or kind of risks all or any part thereof or from limiting such insurance either as to maximum or taking out insurance policies with such other limitations as are authorized by law, or from carrying catastrophe insurance. (2) Self-Insurer.—Every employer who accepts the provisions of Articles 1 and 2 of this chapter but elects not to insure all or any part of his liability thereunder shall either (a) furnish a bond in such form and amount as the Director of the Department of Industrial Relations shall prescribe, secured by some surety company qualified to do business in Alabama, or shall deposit with said Director securities in kind and amount acceptable to said Director, or (b) shall satisfy said Director of his ability to meet obligations to said employees under said Articles 1 and 2. Every employer who has been doing business in Alabama subject to the provisions of the Workmen's Compensation Law for a period of five years or more and who has no outstanding unpaid judgment subject to execution rendered against him under the provisions of the Workmen's Compensation Law shall prima facie be deemed to be able to meet said obligations to his employees under said Articles 1 and 2 and shall not be required to insure the risk, furnish any bond, deposit any securities, or to satisfy said Director of his ability to meet said obligations as above provided, unless the Director, after due notice to an employer, and hearing, determines from substantial and credible evidence, that such employer is unable to meet his obligations under said Articles 1 and 2. An appeal may be taken from such ruling by the Director as hereinafter provided. Appeals from any ruling of the Director of the Department of Industrial Relations hereunder may be taken to the Circuit Court of any county wherein the employer does business; trial in such court shall be de novo and by the court without a jury unless the employer demands a jury at the time of taking such appeal; provided, however, the taking of any such appeal shall not supersede the ruling or order appealed from unless good and sufficient bond approved by the judge of the court to which the appeal is taken shall be filed with the clerk of said court conditioned on complying with such order as may be legally made effective and further conditioned upon payment by the employer of all compensation claims that may arise against him pending the disposition of such appeal. (3) Penalties.—Any person who violates any of the provisions of this section shall be deemed guilty of a misdemeanor and shall be subject to a fine of not less than \$25.00 nor more than \$1,000.00. The Director of the Department of Industrial Relations is authorized to apply to any court of competent jurisdiction for an injunction to restrain

threatened or continued violation of any provisions hereof. (4) Conditions of insurance policies.—Insurance policies written pursuant hereto shall contain a clause to the effect that as between the workman and the insurer, notice to and knowledge by the employer of the occurrence of the injury shall be deemed notice and knowledge on the part of the insurer; that jurisdiction of the employer for the purpose of Articles 1 and 2 of this chapter shall be jurisdiction of the insurer, and that the insurer will in all things be bound by and subject to the awards, adjudgment or judgment rendered against such employer upon the risk so insured. Such policies shall provide that the workman shall have equitable lien upon any amount which shall become owing on account of such policy to the employer from the insurer, and in case of legal incapacity or inability of the employer to receive the said amount and pay it over to the workman or dependents, the said insurer will pay the same direct to the said workman or dependents, thereby discharging all obligations under the policy to the employer and all the obligations of the employer and the insurer to the workman, but such policies shall contain no obligations relieving the insurance company from payment when the employer becomes insolvent or discharged in bankruptcy or otherwise, during the period the policy is in force, if the compensation remains owing. The insurer must be one authorized by law to conduct such business in the State of Alabama, and all insurance companies writing such insurance may include in their policies, in addition to the requirements now provided by law, the additional requirements, terms and conditions in this section provided. Every insurance corporation, mutual corporation, reciprocal exchange or association authorized to transact the business of workmen's compensation insurance in this State and which insures employers against liability for compensation under the provisions of Articles 1 and 2 of this chapter shall file with the Department of Commerce its classification of risks and premiums relating thereto and any subsequent proposed classification of risks and premiums, together with the basic rates and merit rating schedules, if a system of schedule-rating or merit-rating be used by such insurance corporation, exchange or association, none of which shall take effect until the Director of the Department of Commerce shall have approved the same as reasonable, adequate and not excessive. Within ten days after such approval of said rates, schedules and system of schedule merit rating by said Director of the Department of Commerce, he shall make or cause to be made, a sufficient number of printed or typewritten copies of same for such purpose, and shall mail at least one copy of each of the same to every insurance carrier writing workmen's compensation business in the State of Alabama, at its last address, or at the last address of its designated agent to receive the same, left in writing by such carrier with said Department. And every such insurance

carrier shall (or if such insurance carrier be a member of or associated with a rating or inspection bureau, either or both of them or a concern or aggregation of like character, it shall cause such rating and inspection bureau, either or both, or concern or aggregation of like character with which it is affiliated to do so) file with the Department of Commerce a full and complete statement of the actuarial and underwriting experience, data and the like in its possession, from which and upon which said rates, schedules and systems so filed were ascertained, calculated and constructed, and within six months after the expiration of each succeeding six months, file a like statement of all actuarial and underwriting data and the like, pertaining to such rates, schedules and system, accumulated or acquired by it during the preceding six months. Upon failure to file said statement within the time specified above, said rates, schedules or systems may be presumed by the Director of the Department of Commerce without more, to be excessive, unreasonable or inadequate to provide the necessary reserves, or discriminatory as the case may be. The said Director may withdraw his approval of any premium rate or schedule made by any such insurance corporation, association, mutual corporation, or reciprocal exchange, if in his judgment, such premium rate or schedule is excessive or unreasonable or discriminatory or is inadequate to provide the necessary reserves. Nothing in Articles 1 and 2 of this chapter contained or in any other law of this State shall affect the right of any insurance corporation or any mutual or reciprocal insurance corporation or association to issue participating policies or contracts and to pay savings, refunds or dividends upon such policies or contracts. No agreement by an employee to pay to an employer any portion of the cost of insuring his risk under Articles 1 and 2 of this chapter shall be valid unless such agreement between the employer and employee the plan of which is part of a contract approved in writing by the Director of the Department of Commerce of the State of Alabama. But the employer and the workman may agree to carry the risks covered by Article 2 of this chapter in conjunction with other and greater risks and providing other and greater benefits such as additional compensation, accident, sickness or old age insurance or benefits, and the fact that such plan involves a contribution by the workman shall not prevent its validity if such plan has been approved in writing by the Director of the Department of Commerce of Alabama. Any employer who shall make any charge or deduction prohibited by this section shall be guilty of a misdemeanor. If the employer shall insure to his employees the payment of the compensation provided by Article 2 of this chapter and according to the full benefits thereof and with full coverage under Articles 1 and 2 of this chapter in a corporation or association authorized to do business in the State of Alabama and approved by the Director of the Department

of Commerce of the State of Alabama, and if the employer shall post a notice or notices in a conspicuous place or in conspicuous places about his place of employment, stating that he is insured and by whom insured, and if the employer shall further file a copy of such notice with the Department of Commerce, then, and in such case, any suits or actions brought by an injured employee or his dependents shall be brought directly against the insurer, and the employer, or insured, shall be released from any further liability. In case of insolvency or bankruptcy of said insurance company or in case it cannot be reached by due diligence by process in this State, the employer shall not be released from liability under the provisions of Articles 1 and 2 of this chapter. Should any recovery be had in excess of the amount of the insurance carried, the employer shall be liable for such excess. The return of any execution upon any judgment of any employee against any such insurance company unsatisfied in whole or in part shall be conclusive evidence of the insolvency of such insurance company for the purposes of Articles 1 and 2 of this chapter and in the event of adjudication of bankruptcy or insolvency of any such insurance company by any court of competent jurisdiction, proceedings may be brought by the employee against the employer in the first instance or against such employer and insurance company jointly or severally or in any pending proceeding against any insurance company, the employer may be joined at any time after such adjudication.

Section 8. That Section 7587 of the Code of Alabama of 1923 be amended to read as follows: 7587. **LIABILITY OF PARTY OTHER THAN EMPLOYER.**—Where the injury or death for which compensation is payable under Article 2 of this chapter was caused under circumstances also creating a legal liability for damages on the part of any party other than the employer, such party not being subject to the provisions of Article 2 of this chapter, legal proceedings may be taken by the employee or dependents against such other party to recover damages, notwithstanding the payment by the employer, or his liability to pay compensation hereunder. But in such case if the action against such other party is brought by the injured employee, or in case of his death by his dependents, and judgment is obtained and paid, or settlement is made with such other party, either with or without suit, the employer shall be entitled to deduct from the compensation payable by him the amount actually received by such employee or his dependents; if the injured employee, or in case of his death his dependents, shall agree to receive compensation from the employer or shall institute proceedings to recover the same or accept from the employer any payment on account of such compensation, such employer or his insurance carrier or both as their interests may appear, shall be subrogated to all the rights of such employee, or

dependents, and may, in his own name or their own names, maintain or in case an action has already been instituted, may continue the action either in the name of the employee or dependents, or in his own name or their own names against such other party for the recovery of damages, but such employer shall nevertheless pay over to the injured employee or dependents all sums collected from such other party by judgment or otherwise in excess of the amount of such compensation payable by the employer under Article 2 of this chapter and costs, attorney's fees and reasonable expenses incurred by such employer in making such collection or enforcing such liability; but in no case shall such party be liable to any person other than the employee or his dependents for any damages growing out of or resulting from such injury or death.

Section 9. That Section 7589 of the Code of Alabama of 1923 be amended to read as follows: 7589. DEPARTMENT OF INDUSTRIAL RELATIONS.—The Director of the Department of Industrial Relations of the State of Alabama shall gather statistics on accidents and their causes and shall generally be responsible for the efficient administration of this Act and to this end shall have full power to make or cause to be made the necessary investigations and examinations in connection with the settlement of all workmen's compensation claims. As herein used, the work "Director" shall be construed to mean the "Department of Industrial Relations" or the Director thereof unless a contrary meaning plainly appears.

Section 10. That Section 7590 of the Code of Alabama of 1923 be amended to read as follows: 7590. DIRECTOR PREPARES FORMS AND LITERATURE FOR DISTRIBUTION.—The Director of the Department of Industrial Relations shall prepare and cause to be printed, at the expense of the State, and to be paid for as other supplies are paid for, and upon request furnish free of charge to any employer or employee such blank forms and literature as he shall deem requisite to facilitate or promote the efficient administration of Articles 1 and 2 of this chapter other than the papers relating to court proceedings.

Section 11. That Section 7591 of the Code of Alabama of 1923 be amended to read as follows: 7591. EMPLOYER KEEPS RECORDS OF INJURIES; REPORT OF.—Every employer shall hereafter keep a record of all injuries, fatal or otherwise, for which compensation is claimed or paid, received by his employees in the course of their employment. Within fifteen days after the occurrence of such injuries and knowledge thereof by the employer, a report of the same shall be made to the Department of Industrial Relations on forms approved by said Department.

Section 12. That Section 7592 of the Code of Alabama of 1923 be amended to read as follows: 7592. REPORT OF SETTLEMENTS.—Such employer shall within ten days after the settle-

ment of any cause other than a settlement approved by the court, make a report thereof in writing, giving the details of such settlement and mail the same to the Department of Industrial Relations on forms approved by said Department.

Section 13. That Section 7593 of the Code of Alabama of 1923 be amended to read as follows: 7593. CLERK OF CIRCUIT COURT REPORTS TO DIRECTOR.—The clerk of the circuit court shall within ten days after the disposition of any case in his court make a report in writing giving the details of such disposition, and mail the same to the Department of Industrial Relations on forms approved by said Department.

Section 14. That Section 7594 of the Code of Alabama of 1923 be amended to read as follows: 7594. SUPPLEMENTARY REPORT.—Upon the termination of the disability of the injured employee, or if the disability extends beyond a period of ninety days, then also at the expiration of each such period, and in all cases upon cessation or termination of payments of compensation, for any reason whatever, the employer shall make a supplementary report to the Department of Industrial Relations on forms approved by said Department.

Section 15. That Section 7547 of the Code of Alabama of 1923, as amended by Act Number 29 of the General Laws of the Legislature of Alabama passed at the Extraordinary Session of 1936, be amended to read as follows: 7547. PRESUMPTION AS TO ACCEPTANCE OF PROVISIONS OF ARTICLE 2.—All contracts of employment made on or after the first day of January, 1941, shall be presumed to have been made with reference to and subject to the provisions of Article 2 of this chapter unless otherwise expressly stated in the contract in writing, or unless written or printed notice has been given by either party to the other, prior to the accident, as hereinafter provided, that he does not accept the provisions of said Article 2. All contracts of employment made prior to, and existing on, the first day of January, 1941, shall be presumed to continue from and after the first day of January, 1941, subject to and under the provisions of Article 2 of this chapter, unless on or prior to said date, the parties have expressly agreed in writing to the contrary, or unless written or printed notice has been given by either party to the other, prior to the accident, as hereinafter provided, that he does not accept the provisions of said Article 2. Every employer and every employee shall be presumed to have accepted and come under Article 2 of this chapter and the provisions thereof relating to the payment and acceptance of compensation, unless, prior to the accident resulting in personal injury or death, he shall have given notice, as hereinafter provided, of his election not to accept or be bound by the provisions of said Article 2 of this chapter. Employer's Notice.—The employer shall post and keep posted in a conspicuous place in his factory, shop or

place of business, where the employee is employed, a written or printed notice of his election not to accept or be bound by the provisions of Article 2 of this chapter, or he shall personally serve a copy of such notice on the employee; and he shall file a duplicate or copy of such notice with the Department of Industrial Relations and with the probate judge of the county in which the employee is performing service under said employment. **Employee's Notice.**—The employee shall give written or printed notice to the employer of his election not to accept or be bound by the provisions of said Article 2 of this chapter and he shall file a duplicate or copy thereof, with an affidavit of service on the employer attached thereto, with the Department of Industrial Relations and with the probate judge of a county in which he does business. The said notices shall be recorded by the probate judge, for which he shall receive the usual fee for recording conveyances and a certified copy of any such recorded notice shall be presumptive evidence in any court in this state that employer or such employee, as the case may be, has elected not to accept or come under Article 2 of this chapter.

Section 16. That Section 7563 of the Code of Alabama of 1923, as amended by Act Number 29 of the General Laws of the Legislature of Alabama passed at the Extraordinary Session of 1936, be amended to read as follows: 7563. **LIMITATION ON COMPENSATION.**—In no case hereunder, except as otherwise provided herein, shall the compensation paid hereunder be more than Eighteen Dollars per week, nor less than Five Dollars per week, and in no case shall the total amount exceed Six Thousand Dollars.

Section 17. That Section 7567 of the Code of Alabama of 1923, as amended by Act No. 29, of the General laws of the Legislature of Alabama passed at the Extraordinary Session of 1936, be amended to read as follows: 7567. **MEDICAL, SURGICAL AND HOSPITAL SERVICE.**—In addition to the compensation herein provided, the employer shall pay the actual cost of reasonably necessary medical and surgical treatment and attention, medicine, medical and surgical supplies, crutches and apparatus, as may be obtained by the injured employee during the first ninety days of disability, or in case of death within said ninety days, obtained during the period occurring between the time of the injury and his death therefrom. The total liability of the employer under this section shall not exceed the aggregate of two hundred dollars, and the pecuniary liability of the employer for such services rendered the employee shall be limited to such charges as prevail for similar treatment in the community where the injured employee resides. In case an insurer of the employee or a benefit association is liable for such medical, surgical and hospital service, or for a part thereof, or in case the employee is entitled to the same or a part thereof, from any source whatever by virtue of any agreement or understanding, or law, state or federal, without any loss of bene-

fit to the employee, the employer shall not be required in such case to pay any part of such expense, unless said benefits are insufficient to pay as much as said two hundred dollars, and in such event the employer shall be liable for the deficiency only. All cases of dispute as to the necessity and value of such services shall be determined by the tribunal having jurisdiction of the claim of the injured employee for compensation. In addition to the medical and surgical treatment provided during ninety days of disability, the employer may, if he so elects, furnish to the injured employee such medical and surgical treatment and attention, medical and surgical supplies, crutches and apparatus for such time thereafter as he desires to furnish the same, and the employee shall accept the same; if the employer furnishes such medical and surgical attention and supplies during such ninety day period he shall not be liable under this section, except for such of said services and supplies as may, in an emergency, be procured by the employee elsewhere; in no event, however, shall the total liability hereunder exceed two hundred dollars. The injured employee must submit himself to examination by the employer's physician at all reasonable times, if requested to do so by the employer but the employee shall have the right to have a physician of his own selection present at such examination, in which case the employee shall be liable for such physician for his services. The employer shall pay for the services of the physician making the examination at the instance of the employer. And in case of dispute as to the injury, the court may, at the instance of either party, or of its own motion, appoint a neutral physician of good standing and ability to make an examination of the injured person and report his findings to the court, the expense of which examination shall be borne equally by the parties. If the injured employee refuses to comply with any reasonable request for examination or refuses to submit to medical and surgical treatment and attention, or refuses to accept the medical service which the employer elects to furnish under the provisions of this chapter his right to compensation shall be suspended, and no compensation shall be payable for the period of such refusal. Any physician whose services are furnished or paid for by the employer, or any physician of the injured employee, and who treats or makes or is present at any examination of an injured employee may be required to testify as to any knowledge by him in the course of such treatment or examination as same related to the injury or disability arising therefrom. In all death claims where the cause of death is obscure or is disputed, any interested party may require an autopsy, the cost of which is to be borne by the party demanding the same.

Section 18. That Section 7596 of the Code of Alabama of 1923, as amended by Act Number 29 of the General Laws of the Legislature of Alabama passed at the Extraordinary Session of 1936,

be amended to read as follows: 7596. WORDS AND PHRASES DEFINED.—Throughout Articles 1 and 2 of this chapter the following words and phrases as used therein shall be considered to have the following meaning, respectively, unless the context shall clearly indicate a different meaning in the connection used. (a) The word “compensation” has been used both in Article 1 and Article 2 of this chapter to indicate the money benefits to be paid on account of injury or death. Strictly speaking, the benefit which an employee may receive by action at law under Article 1 of this chapter is damages, and this is indicated in section 7534. To avoid confusion, the word “compensation” has been used in Articles 1 and 2 of the chapter, but it should be understood that under Article 1 the compensation by way of damages is determined by an action at law. (b) “Child” or “children” include posthumous children and all other children entitled by law to inherit as children of the deceased, also stepchildren who were members of the family of the deceased at the time of the accident, and dependent upon him for support, also a grandchild of the deceased employee, whose father is dead or is an invalid, and who was supported by, and a member of the family of, such deceased grandparent at the time of the accident. (c) A dependent child or orphan shall be considered to mean an unmarried child under the age of eighteen years, or one over that age who is physically or mentally incapacitated from earning. (d) The term “employer” as used herein shall mean every person not excluded by section 7543 who employs another to perform a service for hire and to whom the “employer” directly pays wages, and shall include any person or corporation, co-partnership, or association, or group thereof, and shall if the employer is insured, include his insurer as far as applicable and shall not include one who regularly employs a number less than eight in any one business. (e) The term “physician” shall include “surgeon”, and in either case shall mean one authorized by law to practice his profession within one of the United States and in good standing in his profession at the time. (f) The term “workman” shall include the plural and all ages and both sexes. (g) The terms “employee” and “workman” are used interchangeably and have the same meaning throughout this chapter, and shall be construed to mean the same. (h) The terms “wages,” and “weekly wages,” and such expressions shall, in all cases, unless the context clearly indicates a different meaning, be construed to mean “average weekly earnings.” Every person, not excluded by section 7543 in the service of another under any contract of hire, express or implied, oral or written, includes aliens, and also includes minors who are legally permitted to work under the laws of the state. Any reference herein to a workman or employee shall, where the employee is dead, include a reference to his dependents, as herein defined if the context so requires. (i) The word “accident” as used in the

phrases "personal injuries due to accident" or "injuries or death caused by accident" in Articles 1 and 2 of this Chapter shall, unless a different meaning is clearly indicated by the context, be construed to mean an unexpected or unforeseen event, happening suddenly and violently, with or without human fault, and producing at the time injury to the physical structure of the body by accidental means. (j) Personal injuries, etc.—Without otherwise affecting either the meaning or interpretation of the abridged clause, injuries by an accident arising out of and in the course of his employment, it is hereby declared: Not to cover workmen except while engaged in, or about the premises where their services are being performed, or where their service requires their presence as a part of such service at the time of the accident, and during the hours of service as such workmen, and shall not include an injury caused by the act of a third person or fellow employee intended to injure the employee because of reasons personal to him, and not directed against him as an employee, or because of his employment, and it shall not include a disease unless the disease results proximately from the accident. (k) Wherever in Articles 1 and 2 of this Chapter, the singular is used, the plural shall be included; where the masculine gender is used, the feminine and neuter shall be included. (l) Amputations between the elbow and wrist shall be considered as the equivalent to the loss of a hand, and the amputation between the knee and ankle shall be considered as the equivalent of the loss of a foot. (m) "The court" as used, herein shall mean the circuit court which would have jurisdiction in an ordinary civil case involving a claim for the injuries or death in question, and "the judge" shall mean a judge of said court. Article 1 of this chapter shall not apply in cases where Article 2 becomes operative in accordance with the provisions thereof, but shall apply in all other cases, and in such cases shall be in extension or modification of the common law.

Section 19. **REPEAL.**—That Sections 7595 and 8329 of the Code of Alabama of 1923, and all laws and parts of laws, general, special and local in conflict with the provisions of this Act, be and the same are hereby repealed.

Section 20. **SEVERABILITY.**—If any provision of this Act or the application thereof to any person, circumstances or situation shall be adjudged invalid, such adjudication shall not affect any other provision of this Act, or the application of the provision with respect to which such adjudication shall have been made to any other person, circumstance, or situation.

Section 21. **RIGHT OF ACTION PRESERVED.**—That the enactment of this Act shall not affect any right or remedy, or cause of action, or defense thereto, of any employee or dependent, or of any employer, or of any person, firm or corporation, arising out of

any accident occurring prior to January 1, 1941, under the Workmen's Compensation Law.

Section 22. EFFECTIVE DATE OF ACT.—That this Act shall become effective on the first day of January, 1941.

Approved July 10, 1940.

No. 662)

(H. 703—Carwile

AN ACT

To amend Section 6771 of the Code of Alabama of 1923.

Be it Enacted by the Legislature of Alabama:

Section 1. That Section 6771 of the Code of Alabama of 1923 be, and the same is hereby, amended so as to read as follows: "6771 Compensation of County Commissioners. Each member of the Court of County Commissioners, or Board of Revenue, in each of the several counties of the State of Alabama shall be paid for their services the sum of \$4.00 per day while occupied in the discharge of their duties as such member of the Court of County Commissioners or Board of Revenue, and 5c per mile in going to and returning from their respective courts, and the sum of \$4.00 per day while occupied in the discharge of their duties in letting out, inspecting and accepting, building or repairing any of the County bridges or County buildings, roads or works, and 5c per mile for each mile necessarily traveled by them in so doing, said sums to be paid on warrants drawn on the County Treasury on the order of the Court of County Commissioners, or Board of Revenue. No allowance shall be made to any Commissioner for per diem or mileage for inspecting roads, bridges, etc., except when acting under authority of an order by the Commissioners Court previously made. The per diem and mileage of such member for services rendered when letting out, inspecting and accepting, building, or repairing any of the County bridges, roads or works, shall be paid out of any money in the County Treasury, which shall be designated and set apart by the Commissioners Court, or Board of Revenue of their respective Counties for the payment thereof. Provided, that this Act shall not operate to repeal any local law affecting any county with respect to the matters contained in this Act.

Approved July 3, 1940.

No. 663)

(H. 775—Young

AN ACT

For the relief of John C. Burns, and to appropriate for this purpose the sum of \$2,834.09 out of any monies in the State Treasury, not otherwise appropriated in order to reimburse the said John C. Burns for the above sum paid by him, after protest and objection, to the State Treasury through the Alabama Public Service Commission and the State Tax Commission for mileage tax claimed to be due by said Alabama Public Service Commission and said State Tax Commission under the provision of the Common Carrier Act of 1931, which said provisions of said Common Carrier Act of 1931 were held by the Supreme Court of Alabama inapplicable to the said John C. Burns, doing business under the firm style of Burns Transportation Company, in the case of State Tax Commission versus Burns Transportation Company, by decision rendered on the 6th day of April, 1939.

Be it Enacted by the Legislature of Alabama:

Section One: That the sum of \$2,834.09 be, and the same is hereby appropriated to John C. Burns, doing business under the firm style of Burns Transportation Company, out of any monies in the State Treasury, not otherwise appropriated, in order to reimburse the said John C. Burns for the above sum paid by him after protest and objection to the State Treasury, through the Alabama Public Service Commission and the State Tax Commission, which payments were made on demand of said Alabama Public Service Commission and said State Tax Commission in pursuance of the provisions of the Common Carrier Act of 1931 relating to mileage tax, and which provisions of said statute have been held by the Supreme Court of Alabama, in the case of State Tax Commission versus Burns Transportation Company, by decision rendered April 6, 1939, as inapplicable to the operation of the said John C. Burns, doing business under the firm style of Burns Transportation Company.

Section Two: Be it further enacted, that the State Comptroller is hereby authorized, empowered and directed to draw his warrant in said sum of \$2,834.09 payable to the said John C. Burns, for said purpose.

Approved July 5, 1940.

No. 664)

(H. 791—Dominick

AN ACT

To provide for the levy, assessment and collection of mileage taxes from motor carriers in the State of Alabama; to provide that all funds collected hereunder be paid into the State Treasury into the Motor Carrier Fund and for the expenditure of said funds; and to require and provide

for giving security to the State for such taxes and provide penalties for violation of this Act and to provide for reciprocity with other States.

Be it Enacted by the Legislature of Alabama:

Section 1. The following words, terms and phrases when used in this Act shall have meanings ascribed to them in this section except where the context clearly indicates a different meaning. (1) The words "vehicle transporting property" shall mean a straight truck with two axles, a trailer, a truck semi-trailer with three axles, and a straight truck with three axles. (2) Motor Carrier means any person, firm, partnership, association, joint stock company, corporation, lessee, trustee, or receiver appointed by any court controlling operating or managing any motor vehicle used for the transportation of persons or property for hire. (b) The term "department" means the Department of Revenue of the State of Alabama. (c) The term "Commissioner" means the Commissioner of Revenue of the State of Alabama. (3) The word taxpayer means any person, firm, partnership, association, joint stock company, corporation lessee, trustee or receiver appointed by any court liable for taxes hereunder. (4) The term person means any individual, firm, co-partnership, association, corporation, receiver, trustee, or any other group or combination acting as a unit, and the plural as well as the singular number, unless the intention to give a more limited meaning is disclosed by the context. (5) "Seating Capacity" means actual number of regular passenger carrying seats in a motor vehicle. (6) "Regular passenger Carrying seats" means a seat ordinarily and customarily used by one (1) passenger but does not include folding, or collapsible emergency aisle seats; (7) "Axle" means a shaft on which a wheel or wheels run, and for the purposes of this Act, two such shafts connected in tandem, and commonly known as a tandem axle, shall be considered one axle when not equipped with dual wheels on either end of either shaft of such tandem axle.

Section 2. That every motor carrier traversing the highways of the State subject to the provisions of an Act known as the Alabama Motor Carrier Act of 1939 shall pay to the State of Alabama into the fund of the State Department of Revenue as contribution to the maintenance, repair and policing of its public highways for each mile actually operated within the State on such public highways, whether such vehicle is loaded or empty, a mileage tax of one-fourth ($\frac{1}{4}$) cent per mile on all passenger vehicles with a seating capacity of sixteen (16) passengers or less; and a mileage tax of one-half ($\frac{1}{2}$) cent per mile on all passenger vehicles with a seating capacity of not less than seventeen (17) passengers and not more than twenty-one (21) passengers; and a mileage tax of three fourths ($\frac{3}{4}$) cent per mile on all passenger vehicles with a seating capacity of twenty-two (22) and not exceeding twenty-five (25)

passengers; and a mileage tax of one cent (0.01) per mile on all passenger vehicles with a seating capacity exceeding twenty-five (25) passengers; "seating capacity" for the purpose of this Act means actual number of regular passenger carrying seats in a motor vehicle; and "regular passenger carrying seats" as used in this Act means a seat ordinarily and customarily used by one (1) passenger but does not include folding, or collapsible emergency aisle seats: provided, however, that the number of such folding or collapsible aisle seats shall not be greater in number than twenty-five percent (25%) of the regular seats in such vehicle; and provided further that where any seats in the vehicle are not distinguished by separate cushions or backs, one seat shall be counted for each eighteen (18) inches of space on any such seat; and a mileage tax of one-fourth ($\frac{1}{4}$) cent per mile, per axle, on all vehicles transporting property for hire, Provided, however, that the rate of mileage tax of one-fourth cent ($\frac{1}{4}$ c) per mile, per axle, on all vehicles transporting property, for hire, shall be increased to one-third cent ($\frac{1}{3}$ c) per mile, per axle, with respect to the operation of such vehicle, in the event the motor carrier operating such vehicle is domiciled in Alabama and elects to operate the same in any other State under the provisions of any reciprocal contract or agreement hereafter entered into and then effective between the State of Alabama and such other State, and provided further that such increased tax shall not exceed the amount of any tax benefit thus accruing to such motor carrier by reason of such operation of such vehicle in such other State. Any such election shall be evidenced by written declaration thereof filed with the State Department of Revenue, and any such reciprocal agreement may contain provisions restricting the benefits thereof to motor carriers who have filed such declaration of election hereunder. The taxes imposed by this Act shall be increased fifty percent (50%) if the annual license tax prescribed by the laws of this State on like vehicles is not paid. Such mileage tax as herein set out shall be paid by such motor carrier in addition to all property, franchise, license or other taxes, fees and charges now or hereafter provided by law. The tax herein levied shall constitute a debt due the State of Alabama and may be collected by civil suit in addition to the methods herein provided.

Section 3. The taxes levied under the provisions of this Act, shall be due and payable in monthly installments on or before the 15th day of the month next succeeding the month in which the tax accrues. On or before the 15th day of each month after this act shall have taken effect, every motor carrier on whom the taxes levied by this Act are imposed, shall render to the State Department of Revenue on a form prescribed by the Department, a true and correct statement showing (a) the mileage traveled on the highways of this State for the preceding month, or portion thereof, (b) the number, kind, motor number and make of the motor

vehicle so operated, together with such other information as the Department may demand and require, and at the time of making such monthly report such person shall compute the taxes due and shall pay to the State Department of Revenue the amount of taxes shown to be due. The Department of Revenue, for good cause, may extend the time for making any return required under the provisions of this Act, but the time for filing any such return shall not be extended for a period greater than sixty days from the date such return is due to be made.

Section 4. It shall be the duty of every such motor carrier subject to the tax imposed by this Act, to keep and preserve suitable records of the mileage traveled by every vehicle subject hereto, and such other books or accounts as may be necessary to determine the amount of tax for which such motor carrier is liable under the provisions of this Act, showing the number, make, motor number, of the motor vehicle so operated, and all such books and records shall be open for examination at any time by the Department, or its duly authorized agent. The Department is given full power and authority to prescribe records to be kept and reports to be made by such companies to facilitate collection of mileage tax imposed by this Act.

Section 5. Any person subject to the provisions of this Act who shall fail to make the reports or any of them as herein required, or who shall fail to keep the records as herein required shall be guilty of a misdemeanor and upon conviction shall be punished as is provided in case of conviction for a misdemeanor for each offense. Each month of such failure shall constitute a separate offense.

Section 6. As soon as practicable after the return is filed the Department shall examine it and ascertain the proper amount of the tax as shown by the return. If the amount paid is greater than the amount due, as shown by the return, the excess shall be refunded to the motor carrier, or credited on any deficiency previously due by the motor carrier, in accordance with law and under such rules and regulations as the Department may adopt and promulgate. If the amount paid is less than the amount due, as shown by the return, the Department shall immediately notify the motor carrier of such deficiency and shall add thereto a penalty of ten (10%) per cent of the amount due, and if such deficiency be not paid within thirty days from the date of such notice, the same shall bear interest at the rate of one-half of one ($\frac{1}{2}$ of 1%) per cent per month, or fraction thereof, from the date the same was due and shall be collected as a part of the tax.

Section 7. Any motor carrier who fails to pay the tax herein levied within the time required by this Act shall pay, in addition to the tax, a penalty of ten (10%) per cent of the amount of the tax due, together with interest thereon at the rate of one-half of one

($\frac{1}{2}$ of 1%) per cent per month, or fraction thereof, from the date at which the tax herein levied became due and payable, such penalty and interest to be assessed and collected as a part of the tax.

Section 8. If any motor carrier fails to make the returns herein required, the Department shall issue written notice by registered mail, to such taxpayer to make such returns forthwith, and if such taxpayer fails or refuses to make such return, or returns, within thirty days from the date of such notice, then the Department shall make return for such delinquent taxpayer upon such information as it may reasonably obtain, and shall assess the taxes due thereon, and shall add a penalty for failure to make such return and payment of twenty-five (25%) per cent of the tax due, as assessed by the department, and interest at the rate of one-half of one ($\frac{1}{2}$ of 1%) per cent per month, or fraction thereof, from the date such taxes were due. Provided, the Department, if a good and sufficient reason is shown for such delinquency, may waive or remit the twenty-five (25%) per cent penalty, or a portion thereof.

Section 9. Whenever the Department in examining and auditing the records of any motor carrier, or from other information, shall ascertain that the amount, or amounts, previously paid by any motor carrier for any period, or periods, is incorrect, the Department shall compute the correct amount of tax due, and if it appears that the amount paid by the taxpayer is in excess of the correct amount due, such excess shall be refunded to the motor carrier in accordance with law and under the rules and regulations of the Department. If it appears that the amount paid by such taxpayer is less than the amount due, the Department shall compute the amount of such deficiency and shall notify the taxpayer, and shall demand payment therefor, and if not paid within ten (10) days from the date of such demand, the Department shall make an assessment against the taxpayer of the amount due and shall add a penalty of one-half of one ($\frac{1}{2}$ of 1%) per cent per month from the date such taxes, or any part thereof became due. Provided that if the Department be of the opinion that there was a wilful or fraudulent intent by the taxpayer to evade the tax due, it may assess a penalty of twenty-five per cent (25%) of the tax. Provided that upon appeal such action shall be reviewable.

Section 10. Whenever the Department shall make an assessment against a motor carrier as herein provided, the Department shall notify the motor carrier by registered mail of the amount of such assessment, and shall notify the motor carrier to appear before the Department on a day named not less than twenty (20) days from date of such notice and show cause why such assessment should not be made final. Such appearance may be made by agent or attorney. If no showing is made on or before the date fixed in such notice, or if such showing is not sufficient in the judgment of the Department, such assessment shall be made final in the amount

originally fixed or in such other amount as is determined by the Department to be correct. If upon such hearing the Department finds the amount due to be different from the originally assessed, it shall make the assessment final in the correct amount and in all cases shall notify the motor carrier of the assessment as finally fixed. Provided a notice by the United States mail addressed to the motor carrier's last known place of business shall be sufficient. Any assessment made by the Department shall prima facie be correct upon appeal.

Section 11. Whenever any motor carrier, who has duly appeared and protested an assessment by the Department, is dissatisfied with the assessment as finally made, he may appeal in all respects in the same manner provided by Act No. 154 approved April 21, 1936 (Act Sp. Session 1936 P. 172.) Provided no appeal shall lie in cases where the motor carrier has failed to appear and protest.

Section 12. The tax together with interest and penalties imposed by this Act shall be a lien upon the property of any person subject to the provisions of this Act, and the provisions of the Revenue laws of the State of Alabama applying to liens for license taxes shall apply fully to the taxes herein levied.

Section 13. If no appeal is taken from the final determination or assessment of any such tax or penalty, either or both, within the time allowed by law, and such tax or penalty, either or both, remains unpaid for thirty days after such determination or assessment becomes final, or if a taxpayer has filed a signed return with the State Department of Revenue showing the amount of such tax which is due and such tax is not paid within thirty days after said signed return is so filed, then in either event, the State Department of Revenue shall issue a writ of execution therefor directed to any sheriff of the State of Alabama commanding him to levy upon and sell the real and personal property of such person against whom such execution is directed, found within his county for the payment of the amount thereof, with damages to the amount of ten per cent (10%) of the tax in addition to the fees and penalties imposed thereon, and interest, and the cost of executing said writ, and return said writ to the State Department of Revenue and pay to it the money collected by virtue thereof. The sheriff shall, upon the receipt of said writ of execution, file a copy thereof with the probate judge of his county and thereupon the probate judge shall enter the same, without fees therefor, in the book for the registration of liens of judgments and decrees kept in his office and the day and hour when such copy is filed, and thereupon the amount of such execution so entered shall become a lien in the county where filed, on all the property of such taxpayer, and such lien shall continue for ten years after the date of such execution. The filing of such execution as provided herein shall be notice to all persons of

the existence of the lien thereby created. The sheriff thereupon shall levy upon any property of said taxpayer with like effect and in the manner prescribed by law in respect to execution issued upon judgments of the circuit court, or court of like jurisdiction, and the sheriff shall be entitled to the same fee for his service as now allowed by law for like services, to be collected in the same manner as now provided by law for like services. The sheriff shall make due return of such execution within sixty days of the issuance thereof to the State Department of Revenue and upon such return, alias or plures executions may be issued by the Department which shall be executed in the same manner. If the Commissioner of Revenue ascertains or has just cause to believe that any person is indebted to, or has in his possession or under his control, any money, property, or choses in action belonging to any such delinquent taxpayer in this State, he shall forthwith have served upon such person a notice in writing to appear before some court in the county having jurisdiction of the amount involved, naming the court, to answer as garnishee, and under oath, whether he was indebted to such taxpayer at the time of the service of the notice, or at the time of making his answer, or whether he will be indebted to him by any contract then existing, and if so, the amount of such indebtedness; and whether he has in his possession or under his control, any and what money, property or choses in action belonging to such taxpayer; and in such notice the amount of the taxes, penalties, or fees, either or all, due from such taxpayer shall be set out. Such taxpayer, if in the State shall also be given written notice of the service of such garnishment; and such garnishment and notice shall, without delay, be filed in the court before the garnishee is cited to appear. It shall be the duty of the Commissioner of Revenue, as far as by diligent inquiry he can, to ascertain what persons are indebted to or have in their possession any money, property or choses in the action belonging to any delinquent taxpayer. Such proceedings shall be conducted in the name of the state; and if the notice served on the garnishee is returnable before a justice of the peace or court having like jurisdiction, the garnishee must answer within three days after service of writ of garnishment; if before the circuit court or court having like jurisdiction, he must answer within thirty days after service of writ of garnishment; and thereupon, or in the event of a failure to answer such proceedings, judgment may be had as in cases of garnishment on judgment. The same fees shall be charged as in cases of garnishment on judgment.

Section 14. The State Department of Revenue is hereby empowered to enter into reciprocal agreements or contracts with other States constituting a fair exchange of rights or privileges in regard to the use of the highways of this State by motor vehicles operated for hire under the provisions of this Act. The said reciprocal

agreement or contract can be annulled on notice issued to either party by the other party thereto within 30 days thereafter.

Section 15. When any such motor carrier shall be delinquent in paying the mileage tax as provided in this Act for a period of 60 days, the State Department of Revenue shall notify the Alabama Public Service Commission of such default in writing and the Alabama Public Service Commission may suspend or may revoke, after public hearing, any and all certificates of public convenience and necessity or permits that are in force and effect of said motor carrier which is in default of the payment of said mileage tax.

Section 16. Every motor carrier and every officer, agent or employee of any such motor carrier and every other person who violates, or causes or aids or abets any violation of any provision of this Act, or order, rule or regulation of the Department of Revenue or of the Alabama Public Service Commission under the provisions of this Act, or who knowingly makes any false or erroneous statement, report or representation to the Alabama Public Service Commission or to the Department of Revenue, with respect to any matter placed under the jurisdiction of the Alabama Public Service Commission or the Department of Revenue by this Act, or who shall knowingly make any false entry in the accounts or records required to be kept pursuant to the authority granted by this Act, or who shall knowingly fail to keep, or who shall knowingly destroy or mutilate any such accounts or records, shall be punished by a fine not to exceed \$500.00 or by imprisonment in the County Jail for not exceeding one year, or both such fine and imprisonment. Prosecutions may be had in the Circuit Court of any county of which the offense, or any part thereof shall have occurred; and all fines and forfeitures collected under the provisions of this act shall be paid into the Treasury of the State of Alabama and placed to the credit of the Alabama Department of Public Safety.

Section 17. The State Department of Revenue is hereby empowered to employ such agents or employees as are necessary for the collection of this said mileage tax.

Section 18. Every such motor carrier shall file with the State Department of Revenue a bond in the sum not to exceed \$1,000.00 made payable to the State of Alabama to insure the collection of such mileage tax. Such bond to be approved by the Commissioner of the State Department of Revenue, provided, however, that the Commissioner of the State Department of Revenue may accept bonds issued by the State of Alabama or other adequate security in lieu of such bond.

Section 19. All such mileage tax, penalties, fees and amounts collected under this Act shall be paid into the State Treasury within thirty days after their receipt and shall be kept separate and apart from all other funds by the State Treasurer in a fund to be

known as the "Motor Carrier Fund" and shall be used as follows: (a) for the payment of all necessary expenses as approved by the Governor, incurred by the State Department of Revenue in the discharge of its duties incident to the collection of mileage tax under the provisions of this Act; (b) for the payment of all expenses, as approved by the Governor, incurred by the Alabama Public Service Commission in the discharge of its duties under the "Alabama Motor Carrier Act of 1939", said expenses to be paid from the appropriation of the sum of \$50,000.00 annually, to meet such expenses, provided under the "Alabama Motor Carrier Act of 1939" which appropriation shall be in addition to the appropriation for said Commission provided under Senate Bill No. 239 of Regular Session, 1939, of the Legislature of Alabama; (c) The remainder of said "Motor Carrier Fund" at the end of each fiscal year shall be paid into the appropriate fund to the credit of the State Highway Department to be used in the maintenance, policing and repair of public highways in the State.

Section 20. All laws or parts of laws in conflict or inconsistent with the provisions of this Act are to the extent of such conflict or inconsistency hereby repealed.

Section 21. If any clause, sentence, paragraph or part of this Act shall for any reason be adjudged by any Court of Competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder of this Act; but shall be confined in its operation to the clause, sentence, paragraph, or part thereof directly involved in the controversy in which judgment has been rendered. The provisions of this Act shall become effective within 90 days after its approval by the Governor.

Approved July 5, 1940.

No. 665)

(H. 934—McGowin

AN ACT

To amend Section 16 of Schedule 159 of Section 348 of Chapter 6 of Article XIII of an Act entitled "An Act to provide for the General Revenue of the State of Alabama" approved July 10, 1935. (General Acts 1935 p. 256, 544).

Be it Enacted by the Legislature of Alabama:

Section 1. That Section 16 of Schedule 159 of Section 348 of Chapter 6 of Article XIII of an Act entitled "An Act to provide for the General Revenue of the State of Alabama" approved July 10, 1935, (General Acts 1935, p. 256, 544), be and the same is hereby amended to read as follows: "Section 16. TRANSPORTING AND DISTRIBUTING TOBACCO PRODUCTS: Each and

every person, firm, corporation, club or association of persons transporting or distributing in any manner whatsoever, any tobacco products as enumerated and defined herein within the State of Alabama who has not a privilege license as prescribed in Schedules 32 or 33 of Article XIII, Chapter 1, Section 348 of this Act shall before transporting or distributing any of such tobacco products as enumerated and defined herein secure a permit from the Department of Revenue. "The Department of Revenue shall before issuing said permit ascertain from the applicant the nature of his business and the names of each county said applicant desires to transport or distribute tobacco products as heretofore defined. The Department of Revenue shall before issuing said permit charge and collect annually the following fees for transporting or distributing tobacco products enumerated and defined herein: "For transporting or distributing said tobacco products in counties of 25,000 population or less a fee of Two and Fifty/one-hundredth Dollars (\$2.50) for each such county. In counties over 25,000 population and not to exceed 40,000 population, a fee of Five Dollars (\$5.00) for each such county, in counties over 40,000 population and not to exceed 55,000 population a fee of Seven and Fifty-One Hundredth Dollars (\$7.50) for each such county; in counties of over 55,000 and not to exceed 70,000 population a fee of Ten Dollars (\$10.00) for each such county; in all counties over 70,000 population a fee of Twelve and Fifty/One-Hundredth Dollars (\$12.50) for each such county, provided that each such person, firm, corporation, club or association of persons securing a permit as hereinbefore provided for, shall be allowed for each such permit so secured one vehicle for the purpose of transporting or distributing such tobacco products as enumerated herein. Provided, further, that said permit shall be transferable as to person or vehicle under rules and regulations promulgated by the Department of Revenue. "The permit provided herein shall be conspicuously displayed on the vehicle for which it is issued. Failure to properly display the permit as hereinbefore required shall be deemed a violation of this Section. "Provided, further, any person, firm, corporation, club or association of persons having been issued a permit who engages in any practices which are deemed by the Department of Revenue to be injurious to the collection of the tax provided herein, may have their permit revoked by the Department of Revenue and no further permit shall be issued for six months and not then unless the Department of Revenue is satisfied it is advisable. "Duplicate permit cards will be issued to replace permits lost or damaged upon application and the payment of a fee of One Dollar (\$1.00). "Any person, firm, corporation, club, or association of persons found transporting or distributing any tobacco products defined herein, without first securing a permit as provided above, shall be deemed a violator of this Section and upon conviction shall be punished by

a fine of not more than One Thousand Dollars (\$1,000.00) for each such offense.

Section 2. All laws or parts of laws inconsistent with or in conflict with the provisions of this Act are, to the extent of such inconsistency or conflict, hereby expressly repealed.

Section 3. This Act shall become effective upon its enactment into law.

Approved July 5, 1940.

No. 666)

(H. 1023—Waldrop

AN ACT

To authorize, require and provide for the payment of the sum of \$106.36 out of the funds in the State Treasury to the credit of the State Highway Department, for the relief of C. C. Cunningham, said sum being the actual amount paid by him for the repair of his automobile, which said automobile was damaged on March 17, 1936, on the State highway between Reform and Carrollton in Pickens County, Alabama, due to the negligence of the State Highway Department of Alabama.

WHEREAS, C. C. Cunningham had his automobile damaged on March 17, 1936, on the State highway between Reform and Carrollton in Pickens County, Alabama; and

WHEREAS, the damage to his said automobile was due to the negligence of the State Highway Department, in that, the said State Highway Department was building a bridge on said State highway which was dangerous to the motoring public, and left said bridge at night unattended and without lights to warn the motoring public of danger; and

WHEREAS, the damage to the said automobile was caused by the dangerous and unsafe condition of said bridge, and through no negligence or fault on the part of said C. C. Cunningham; and

WHEREAS, the actual amount expended by the said C. C. Cunningham for the repair of the damage thus done to his automobile amounted to \$106.36:

Be it Enacted by the Legislature of Alabama:

Section 1. That the State Comptroller on the passage and approval of this act be and he is hereby authorized and required to draw his warrant on the State Treasury in favor of C. C. Cunningham for the sum of \$106.36, which shall be paid by the State Treasurer out of the funds in the State Treasury to the credit of the State Highway Department.

Section 2. That this act shall become effective upon its passage and approval by the Governor, or its otherwise becoming a law.

Approved July 10, 1940.

No. 667)

(H. 157—Sightler

AN ACT

To provide for the punishment of any person who defaces, or permits same to be done, any trade mark or other identifying mark on any automobile motor or other motor, pistols, guns, electrical equipment, radios, or motor vehicles, refrigerators, furniture, household or office equipment or any other personal property, when said property is encumbered with a mortgage, conditional sale contract or other lien.

Be it Enacted by the Legislature of Alabama:

Section 1. Any person who defaces, or permits same to be done, with intent to defraud any trade mark or other identifying mark on any automobile motor or other motor, pistols, guns, electrical equipment, radios, motor vehicles, refrigerators, furniture, household or office equipment or any other personal property when said property is encumbered with a mortgage, conditional sale contract or other lien, shall be guilty of a misdemeanor and shall, on conviction, be fined not less than twenty-five dollars not more than five hundred dollars and may be imprisoned in the County jail or sentenced to hard labor for not more than six months.

Section 2. Any person (other than the absolute owner of said property, while same is free and clear of mortgages, retention of title contracts or other encumbrances) found in possession of such property under any claim of right, with knowledge that said property has been defaced by a person or persons with intent to defraud after said trade marks or other identifying marks have been defaced shall be presumed to be guilty of defacing said marks and shall be punished as provided in Section 1 hereof unless said person in possession overcomes the presumption by clear and convincing proof.

Section 3. That all laws and parts of laws in conflict with the provisions of this act are hereby repealed.

Section 4. That the provisions of this Act shall be effective upon its approval by the Governor.

Approved July 6, 1940.

No. 668)

(H. 692—Mayhall

AN ACT

To provide for the Establishment, Regulation, Protection, and Management of Wildlife Management Areas, and to provide the penalties for violation of this act.

Be it Enacted by the Legislature of Alabama:

Section 1. The Department of Conservation, through the Director of Conservation, is hereby authorized and directed to establish by proclamation such wildlife management areas as may be in

the public interest and to enter into agreements with the U. S. Forest Service, the U. S. Bureau of Biological Survey, the Tennessee Valley Authority, or other owners, lessees, or administrators of such lands as may be necessary and suitable for the purpose of establishing Wildlife Management Areas. Such agreements shall provide for the fixing and demarcation of the boundaries of said area or areas, define the responsibilities of the Department of Conservation and the co-operating party or parties for restocking of wildlife species, the planting and cultivation of game and fish foods, the protection of such areas from predatory animals and unauthorized hunting or fishing and any other work necessary for the management of wildlife on such areas, shall include provision for the harvesting of game and fish crops in accordance with special rules and regulations approved by the Director of Conservation, and provide for the collection by the Department of Conservation of special fees for the privilege of hunting on or fishing on such Wildlife Management Areas, and may provide that a portion not to exceed fifty percentum of the gross receipts collected by the Department of Conservation from any such Wildlife Management Area be paid to the co-operating party or parties.

Section 2. The Director of Conservation is hereby authorized to fix such boundaries and promulgate such special rules and regulations for the management and protection of Wildlife Management Areas as may be necessary or desirable. Without limiting the generality of the foregoing, he is specifically authorized to set up for any Wildlife Management Area special open and/or closed seasons on game animals, game birds and fish; to establish the amount of the fees to be collected for the privilege of hunting and/or fishing during any open season; to collect such fees and to authorize their collection by designated employees of the Department of Conservation; to require the possession of a special permit when hunting or fishing within Wildlife Management Areas; to limit the number of permits to be issued during any open season to such numbers as he may direct.

Section 3. The Director of Conservation is authorized to close to all hunting and/or fishing any land or water within the boundary of a Wildlife Management Area which is not under a Co-operative Wildlife Management Agreement with the Department of Conservation, provided that at least 90% of the said Wildlife Management Area is under such agreement.

Section 4. The Director of Conservation and his designated agents or employees are hereby authorized to search without warrant any automobile, wagon, truck, or other vehicle, or any hunting sack or hunting coat, within any Wildlife Management Area and to confiscate any protected bird, animal or fish found killed or held in violation of the game laws or the regulations of the

Director of Conservation provided that this section shall not be operative against persons traveling on State and Federal Highways within any Wildlife Management Areas.

Section 5. The carrying or possession of firearms within any Wildlife Management Area, except while in possession of a valid permit allowing this privilege, is hereby prohibited, provided that the provisions of this Section shall not apply to any authorized law enforcement officer nor to any officer of the United States Forest Service, the United States Bureau of Biological Survey, or of the Alabama Department of Conservation while in the pursuit of his official duty.

Section 6. No dog shall be permitted except on leash within any Wildlife Management Area except in accordance with the rules and regulations promulgated by the Director of Conservation, and whoever shall be the owner of any dog at large within any Wildlife Management Area shall be guilty of a misdemeanor.

Section 7. The Director of Conservation shall cause to be constructed within each Wildlife Management Area a building or enclosure suitable for the impoundment of dogs found upon said Wildlife Management Area in violation of Section 6 of this Act. Whenever a dog is found upon said Wildlife Management Area in violation of Section 6 of this Act, it shall be impounded in said building or enclosure until such time as it is redeemed by its owner or is destroyed in accordance with the provisions of this Section. Promptly after the impoundment of any such dog, the Director of Conservation will cause to be published in at least one paper of general circulation in the county or counties within which said Wildlife Management Area is located, a notice wherein said dog is described, the circumstances attending its impoundment are set forth, and notice is given that the dog may be redeemed prior to a date which shall not be less than 21 days after said notification in writing or first publication of said notice, by furnishing proof of ownership, payment of any fine imposed by the court of local jurisdiction for violation of Section 6 of this Act, and the payment of an impoundment charge of \$5.00 to the Department of Conservation to cover the cost of impounding and advertising said dog; and that, unless redeemed by such date, said dog will be destroyed. The above described published notice shall appear in at least two issues of each paper in which it is published, the second appearance to follow the first by not less than six nor more than fifteen days. In addition to such published notice, the Director of Conservation will, if the owner of said dog is known, cause a similar written notice to be delivered to said owner promptly after the impoundment of said dog. If, prior to the date set forth in the above described published notice, said dog is redeemed as provided for in said published notice, the Director of Conservation shall cause said dog to be released and removed from the Wildlife Management Area; but, if

said dog be not so redeemed, the Director of Conservation shall cause said dog to be destroyed.

Section 8. Any person violating any of the provisions of this Act or any rule or regulation promulgated by the Director of Conservation under the authority of this Act shall be guilty of a misdemeanor, and shall, upon conviction, be fined not less than \$25.00 nor more than \$100.00, or imprisoned not less than 30 days nor more than 12 months, or both such fine and imprisonment.

Section 9. If any provision or part of this Act shall be held unconstitutional, invalid or for any reason ineffective, it shall not affect or invalidate any of the remaining provisions of this Act.

Section 10. All laws and parts of laws, whether general, local or special, in conflict with any of the provisions of this Act are hereby expressly repealed.

Section 11. This Act shall become effective immediately upon its approval by the Governor.

Approved July 5, 1940.

No. 669)

(H. 792—Dominick

AN ACT

To be entitled An Act defining common carriers and contract carriers by motor vehicle, brokers and licensees, as related to the subject matter of this Act; to provide for the regulation, supervision and control of such common and contract carriers by motor vehicle, which own, control, operate or manage motor vehicles used for the transportation of persons or property for compensation on the highways of this State; and of such brokers, and of their rates, fares and charges, services, rules, regulations and practices, facilities and equipment; certificates, permits, licenses, franchises and contracts, conferring jurisdiction, power and authority upon the Alabama Public Service Commission to administer, execute and enforce the provisions of this Act; to provide compensation for the members of said Commission for the additional duties imposed hereunder; to authorize the Commission's employment of such additional assistants as are necessary for the administration and enforcement of this Act; to provide for the payment of fees by common and contract carriers and by such brokers; to provide for the enforcement of this Act and of the Commission's regulations and orders thereunder; to provide funds for the administration of this Act and to provide punishment and penalties for the violation of this Act and of the Commission's regulations and orders thereunder; and to repeal all laws or parts of laws in conflict with the provisions of this Act.

Be it Enacted by the Legislature of Alabama:

That in addition to any authority, powers and jurisdiction under the laws of this State now or hereafter conferred upon or exercised by the Alabama Public Service Commission there is hereby conferred upon and vested in said Commission all the authority, power and jurisdiction hereinafter particularly set forth:

Section One. The following words and phrases used in this act, where not in conflict with the context shall be construed as follows: A. The term "commission" shall be construed to mean the Alabama Public Service Commission. B. The term "Commissioner" shall mean one of the members of such commission. C. The term "motor vehicle" means any vehicle, machine, tractor, trailer or semi-trailer, propelled or drawn by mechanical power and used upon the highways in the transportation of passengers or property but does not include any vehicle, locomotive or car operated exclusively on a rail or rails. D. The term "highway" means every public highway, or place of whatever nature, open to the use of the public for purposes of vehicle travel in this State, including the public highways, roads, streets and alleys in towns and cities. E. The term "person" means any individual, firm, co-partnership, corporation, company, association or joint stock association, and includes any trustee, receiver, assignee, or personal representative thereof. F. The term "common carrier by motor vehicle" means any person who or which undertakes, whether directly or by a lease or other arrangement, to transport passengers or property, or any class or classes of property for the general public in the State of Alabama by motor vehicle for compensation, whether over regular or irregular routes, or whether between fixed termini or not, including such other motor vehicle operations of carriers by rail or water and/or express and forwarding companies under this Act. G. The term "contract carrier by motor vehicle" means any person not included under paragraph F of this Section, who or which under a Special or individual contract or agreement, under special or individual contracts or special or individual agreements, and whether directly or by lease or any other arrangement transports passengers or property by motor vehicle for compensation in this State. H. The term "Motor carrier" includes both a common carrier by motor vehicle and a contract carrier by motor vehicle. I. The term "broker" means any person not included in the term "motor carrier" and not a bona fide employee or agent of any such carrier, who or which, as principal or agent, sells or offers for sale any transportation of property other than that transported by common carriers of passengers, subject to this Act, or negotiates for or holds himself or itself out by solicitation, advertisement, or otherwise as one who sells, provides, furnishes, contracts, or arranges for such transportation. J. The "service" and "transportation" (except as to Section 13 hereof), to which this act applies includes all vehicles operated by, for, or in the interest of any motor carrier irrespective of ownership or of contract, express or implied. K. The term "certificate" means a certificate of public convenience and necessity issued under this Act to common carriers by motor vehicle. L. The term "permit" means a permit issued under this Act

to contract carriers by motor vehicle. M. The term "license" means a license issued under this Act to a broker.

Section Two. This Act shall not be construed to apply to:

A. (1) School busses or other motor vehicles which are owned by county boards of education or under contract with county boards of education, regardless of whether or not such school busses and other motor vehicles are being used exclusively for the transportation of school children and school teachers to and from school, and provided such school busses and other motor vehicles do not take on passengers for fare on a certificated route. (2) Motor vehicles for hire while operating wholly within the limits of a city or incorporated town or within the police jurisdiction thereof; or between two or more incorporated towns or cities whose city limits join or are contiguous or whose police jurisdictions join or are contiguous. (3) Motor vehicles while used in the intrastate transportation of property when the person furnishing the transportation is legally and regularly engaged in the business of selling such property; also motor vehicles if engaged in hauling milk, livestock, coal, logs, lumber, poles, pulpwood, cotton in bales or cotton seed, for a distance not exceeding 75 miles, or fertilizer when being hauled directly to a farm, for a distance not exceeding 150 miles; or trucks hauling road materials and paid by the State of Alabama, for a distance not exceeding 25 miles, and motor vehicles used exclusively in the transportation of milk in thermal or artificially cooled bodies or containers for a distance not exceeding one hundred fifty miles; except that this subsection shall not be construed to exempt from the provisions of this Act any motor carrier who operates under a certificate or permit granted under the authority of the Alabama Public Service Commission. All motor vehicles hauling property for hire and exempt under subsection A(3) of Section 2 must before transporting such property secure a permit from the Department of Revenue of the State of Alabama, which permit shall be furnished without cost upon proper application. Such permit shall be issued under reasonable rules and regulations promulgated by the Department of Revenue of the State of Alabama. B. Motor vehicles owned or operated within the limits of a city or incorporated town or within the police jurisdiction thereof, by or on behalf of hotels and used exclusively for the transportation of hotel patrons between hotels and local railroad or other common carrier stations. C. Motor vehicles owned and operated by the United States, this state, or any county, municipality or other political subdivision of this state. D. Motor vehicles controlled and operated by any farmer while used in the transportation of agricultural commodities and products thereof, whether for himself or another farmer, or in the transportation of supplies to or from the farm. E. Motor vehicles controlled and operated by a bona fide co-operative association as defined by the General Agri-

cultural Marketing Act, approved June 15, 1929, as amended, or organized or existing under any state cooperative marketing act, while used exclusively in the conduct of the business of such Association. F. Motor vehicles while used exclusively in the transportation of newspapers and magazines. G. Motor vehicles owned by a farmer used occasionally in transporting household goods and furniture.

Section Three. No motor carrier as defined herein, not herein exempt, shall operate any motor vehicle for the transportation of passengers or property for compensation on any highway in the State except in accordance with the provisions of this Act; and every such carrier is hereby declared subject to control, supervision and regulation by the Commission. Nothing in this Act shall confer any proprietary or property rights in the use of the public highways.

Section Four. This act, and every part thereof shall apply to and be construed to apply to interstate commerce, except insofar as the same may be in conflict with the provisions of the Constitution of the United States and the Acts of Congress now in force or hereafter enacted.

Section Five. GENERAL DUTIES AND POWERS OF THE COMMISSION. It shall be the duty of the Commission: 1. To regulate common carriers by motor vehicle as provided in this Act and to that end the Commission may establish reasonable rules and requirements with respect to adequate service, transportation of passengers, baggage, freight and express, uniform systems of accounts, records and reports, preservation of records, qualifications and maximum hours of service of employees and safety of operation and equipment. 2. To regulate contract carriers by motor vehicle as provided in this Act, and to that end the Commission may establish reasonable requirements with respect to uniform systems of accounts, records and reports, preservation of records, qualifications and maximum hours of service of employees, and safety of operation and equipment. 3. To regulate brokers as provided in this Act and to that end the Commission may establish reasonable requirements with respect to the licensing, financial responsibility, accounts, records, reports, operations and practices of any such person or persons. 4. To supervise and regulate common carriers in all matters affecting the relationship between such common carriers and the traveling and shipping public. 5. To administer, execute, and enforce all provisions of this Act and to make all necessary orders in connection therewith, and to prescribe rules, regulations, and procedure for such administration; and 6. To inquire into the organization of motor carriers and brokers and into the management of their business, to keep itself informed as to the manner and method in which the same is conducted and to transmit to the Legislature, from time to time such recommenda-

tion as to additional legislation relating to such carriers or brokers as the Commission may deem necessary. 7. The Commission may from time to time establish such just and reasonable classification of brokers or of groups of carriers, included in the term "common Carrier by motor vehicle", or "contract carrier by motor vehicle", as the special nature of the services performed by such carriers or brokers shall require; and such just and reasonable rules, regulations and requirements, consistent with the provision of this Act, to be observed by the carriers or brokers so classified or grouped as the Commission deems necessary or desirable in the public interest. 8. Upon complaint in writing to the Commission, by any person, State Board, organization or body politic, or upon its own initiative without complaint, the Commission may investigate whether any motor carrier or broker has failed to comply with any provision of this Act, or with any requirement established pursuant thereto. If the Commission, after notice and hearing, finds upon any such investigation that the motor carrier or broker has failed to comply with any such provision or requirement, the Commission shall issue an appropriate order to compel the carrier or broker to comply therewith. 9. After a decision, order or requirement has been made by the Commission in any proceeding under this Act, any party thereto may make application to the Commission for reconsideration or rehearing of the same, or of any matter determined herein, and it shall be lawful for the Commission in its discretion to grant such reconsideration or a rehearing, if sufficient reason therefor be made to appear. Such application shall be filed within thirty days after date of such decision, order or requirement provided the Commission may by order extend such time for not more than thirty days additional. Applications for reconsideration or rehearing shall be governed by such general rules as the Commission may prescribe. No such application shall excuse any motor carrier or broker from complying with or obeying any decision or requirement of the Commission, or operate in any manner to stay or postpone the enforcement thereof, without the special order of the Commission. If, after such reconsideration or rehearing, it shall appear that the original decision, order, or requirement is in any respect unjust, or unreasonable, the Commission may reverse, change, or modify the same accordingly. Any decision, order, or requirement made after such reconsideration or rehearing shall be subject to the same provisions as an original decision, order or requirement, provided, however, it shall not be subject to any further application for reconsideration or rehearing by the Commission.

Section Six. No member of the Commission, nor any employee of the Commission appointed or employed in the administration of this Act shall in any manner have pecuniary interest in, own any securities of, or hold any position with any motor carrier or broker subject to this Act.

Section Seven. ADMINISTRATION. Except as otherwise provided, any matter arising in the administration of this Act, requiring a hearing shall be heard and decided by the Commission or shall by written order of the Commission be referred to a member or examiner of the Commission for hearing and the recommendation of an appropriate order thereon. With respect to such matter, the member or examiner shall have all the rights, duties, powers and jurisdiction conferred by this Act upon the Commission, except that the order recommended by such member or examiner shall be subject to the following provisions of this paragraph. Any order recommended by the member or examiner with respect to such matter shall be in writing and be accompanied by the reasons therefor, and shall be filed with the Commission. Copies of such recommended order shall be served upon the parties in interest, who have appeared in the proceeding, who may file exceptions thereto, but if no exceptions are filed within twenty days after service upon such parties, or within such further period as the Commission may authorize, such recommended order shall become the order of the Commission and become effective, unless within such period the order is stayed or postponed by the Commission. Where exceptions are filed as herein provided, it shall be the duty of the Commission to consider the same, and if sufficient reason appears therefor, the Commission shall grant such review or make such order or hold or authorize such further hearing or proceedings in the premises as may be necessary or proper to carry out the purpose of this Act, or the Commission may, on its own motion, review any such matter and take action thereon as if exceptions thereto had been filed. The Commission, after review upon the same record or as supplemented by a further hearing shall decide the matter and make appropriate order thereon. Where practicable and as the Commission may by rule or notice direct, hearings by the Commission, any member, or examiner upon any matter shall be held at such places within the State of Alabama as are convenient to the parties.

Section Eight. A. Except as otherwise provided in this section no common carrier by motor vehicle subject to the provisions of this Act shall engage in intrastate commerce on any highway in this State unless there is in force with respect to such carrier a certificate of public convenience and necessity issued by the Commission pursuant to the provisions of this Act, authorizing such operation; provided, however, that subject to Section 12, if any such carrier of property, except common carriers of passengers by motor vehicle, or predecessor in interest was in bona fide operation as such common carrier of property by motor vehicle prior to the effective date of this Act, over the route or routes or within the territory for which application is made and has so operated since that time, or if engaged in furnishing seasonal service only, was in bona

bide operation prior to the effective date of this Act, during the season ordinarily covered by its operation, except in either instance as to interruptions in service over which the applicant or its predecessor in interest had no control, the Commission shall issue such certificate without requiring further proof that public convenience and necessity will be served by such operation, and without further proceedings, if application for such certificate is made to the Commission as provided in Paragraph B of this Section, and within 120 days after this Section shall take effect. Otherwise, the application for such certificate shall be decided in accordance with the procedure provided in Section 9 of this Act, and such certificate shall be issued or denied accordingly. Pending the determination of any such application the continuance of such operation shall be lawful; provided however that no common carrier of passengers now holding certificate of public convenience and necessity issued to it by the Commission shall be required to apply for a certificate under this Act, but the certificate now held and effective, shall be effective as if issued under this Act, but this shall not be construed or held to relieve the holder of such certificate from complying with all other provisions of this Act and any and all laws now or hereafter in effect. B. Application for certificates shall be made in writing to the Commission, be verified under oath and shall be in such form and contain such information and be accompanied by proof of service of notice thereof upon such interested parties as the Commission shall, by regulation require; provided, however, that the Commission shall give notice of the filing of any such application upon the State Highway Department and, in the case of an application for a certificate to transport passengers, upon each common carrier of passengers then operating, or proposing to operate by application pending before the Commission, in the territory proposed to be served; and, in the case of an application for a certificate to transport freight, upon each common carrier of freight then operating, or proposing to operate by application pending before the Commission in the territory proposed to be served. Any person not included in the provisions of Paragraph A of this section, who or which is engaged in transportation in intrastate commerce as a common carrier by motor vehicle when this section takes effect may continue such operation for a period of 120 days thereafter without a certificate, and if application for such certificate is made to the Commission within such period, the carrier may, under such regulations as the Commission shall prescribe, continue such operation until otherwise ordered by the Commission.

Section Nine. A. Subject to the provisions of Section Twelve, and to the provisions of paragraph B of this section, a certificate shall be issued to any qualified applicant therefor, authorizing the whole or any part of the operations covered by the application, if it is found, after public hearing of the application, that the applicant

is fit, willing, and able to properly perform the service proposed and to conform with the provisions of this Act and requirements, rules and regulations of the Commission thereunder, and that the proposed service, to the extent to be authorized by the certificate is or will be required by the present or future public convenience and necessity; otherwise such application shall be denied; provided, however, that no such certificate shall be issued to any common carrier of passengers by motor vehicle for operations over other than a regular route or routes, and between fixed termini, except as such carriers may be authorized to engage in special or charter operations. B. Before granting a certificate to a common carrier by motor vehicle the Commission shall, among other things, consider the following: (1) Whether existing transportation service of all kinds is adequate to meet the reasonable public needs. (2) Financial ability of the applicant to furnish adequate, continuous and uninterrupted service the year around. (3) The advantages to the public of the proposed service. C. No certificate issued under this section shall confer any proprietary or property rights in the use of the public highways.

Section Ten. A. Any certificate issued under Section Eight and Section Nine shall specify the service to be rendered and the routes over which, the fixed termini, if any, between which, and the intermediate and off-route points, if any, at which, and in case of operations not over specified routes or between fixed termini, the territory within which the motor carrier is authorized to operate; and there shall at the time of issuance and from time to time thereafter, be attached to the exercise of the privilege granted by the certificate such reasonable terms, conditions and limitations as the public convenience and necessity may from time to time require, including terms, conditions and limitations as to the extension of the route or routes of the carrier, and such terms and conditions as are necessary to carry out, with respect to the operations of the carrier, the requirements established by the Commission under this Act, provided, however that the carrier may add to his or its equipment and facilities over the routes, between the termini, or within the territory specified in the certificate, as the development of the business and the demands of the public shall require, subject to such reasonable regulations as the Commission may prescribe. B. A common carrier by motor vehicle operating under any such certificate may occasionally deviate from the route over which and/or the fixed termini between which, it is authorized to operate under the certificate, under such general rules and regulations as the Commission may prescribe. C. Any common carrier by motor vehicle transporting passengers under a certificate issued or effective under this act may transport to any place, a special or chartered party or parties, under such rules and regulations as the Commission prescribed; and every common carrier by motor vehicle trans-

porting passengers not holding a certificate of public convenience and necessity, issued under this Act, but holding a certificate of public convenience and necessity from the Interstate Commerce Commission issued pursuant to Motor Carrier Act 1935, 49 U.S.C.A., Sec. 302 e.s., as now or hereafter amended, may transport on the highways of this State special or chartered parties under such rules and regulations as the Commission shall prescribe, provided, however, that no such carrier shall be permitted to make more than two trips during a period of one month, and provided further that before any such trip is permitted the carrier shall present to the Commission proper evidence of public liability and property damage insurance covering the vehicle or vehicles to be used in making such trip and shall pay to the State of Alabama the mileage tax prescribed by law and shall furnish the Commission with such other information as the Commission by general or special rule or regulation may reasonably require. D. A certificate for the transportation of passengers may include authority to transport in the same vehicle with the passengers, newspapers, baggage of passengers, express or mail, or to transport baggage of passengers in a separate vehicle. E. No common carrier by motor vehicle authorized under the provisions of this Act to operate within the State of Alabama shall abandon or discontinue, either temporarily (except in cases of emergency) or permanently, any service established under the provisions of this Act without an order of the Commission that the public convenience and necessity permit such abandonment or discontinuance, which said order shall be granted by the Commission only after hearing, should the Commission deem a hearing necessary.

Section Eleven. PERMITS FOR CONTRACT CARRIERS BY MOTOR VEHICLE. A. Except as otherwise provided in this section, no person shall engage in the business of a contract carrier by motor vehicle in intrastate commerce on any highway of this State unless there is in force with respect to such carrier a permit issued by the Commission, authorizing such person to engage in such business; provided, that subject to Section 12, if any such carrier of property, except contract carriers of passengers by motor vehicle, or a predecessor in interest was in bona fide operations as such a contract carrier of property by motor vehicle prior to the effective date of this Act, over the route or routes or within the territory for which application is made and has so operated since that time, or if engaged in furnishing seasonal service only, was in bona fide operation prior to the effective date of this Act during the season ordinarily covered by its operations, except in either instance as to interruptions of service over which the applicant or its predecessor in interest has no control, the Commission shall issue such permit, without further proceedings, if application for such permit is made to

the Commission as provided in Paragraph B of this Section and within 120 days after this section shall take effect, otherwise the application for such permit shall be decided in accordance with the procedure provided for in Paragraph B of this Section, and such permit shall be issued or denied accordingly. Pending determination of any such application under this paragraph A, the continuance of such operation shall be lawful. Any person not included within the foregoing provisions of this Section, who or which is engaged in intrastate transportation as to contract carrier by motor vehicle, when this section takes effect, may continue such operation for a period of 120 days thereafter without a permit, and, if application for such permit is made within such period the carrier may, under such regulations as the Commission shall prescribe, continue such operations until otherwise ordered by the Commission. B. Application for such permits shall be made to the Commission in writing, be verified under oath and shall be in such form and contain such information as the Commission may, by regulation require. Such application for permit shall be accompanied by such proof of service of notice of said application and the filing thereof with the Commission as the Commission shall by regulation require. Notice of such application by every contract carrier of passengers shall be served upon every contract carrier of passengers, and such notice of application by contract carriers of property shall be served on every such carrier of property, then operating in the territory proposed to be served by the applicant and upon every other applicant then having an application pending before the Commission for a permit to operate in the territory proposed to be served by the applicant and upon the State Highway Department. Subject to Section Twelve, a permit shall be issued to any qualified applicant therefor, authorizing in whole or in part the operations covered by the application, if, after public hearing of the application, it appears from the application and the evidence in support thereof or from any hearing held thereon that the applicant is fit, willing and able to properly perform the service of a contract carrier by motor vehicle and to conform to the provisions of this Act and the lawful requirements, rules and regulations of the Commission thereunder, and that the proposed operation, to the extent authorized by the permit will be consistent with the public interest, otherwise such application shall be denied. The Commission shall specify on the permit the business of the contract carrier covered thereby and the scope thereof and shall attach to it, at the time of issuance, and from time to time thereafter such reasonable rules, terms, conditions and limitations consistent with the character of the holder as a contract carrier as are necessary to carry out, with respect to the operations of such carrier, the requirements established by the Commission under this Act; provided, however, that subject to such reasonable regulations as the Commission may prescribe, the carrier may sub-

stitute or add contracts within the scope of his permit, or add to his or its equipment and facilities, within the scope of the permit, as the development of the business and the demands of the public may require. C. Contract carriers of property shall not transport on any one motor vehicle over any highway in this State, outside of the corporate limits of any city, town or municipality, property of more than two consignors at the same time, and for the purposes of this section the word "consignors" means the bona fide owner of the property transported at the time of shipment, who has made the contract for shipment with the carrier.

Section Twelve. DUAL OPERATION. No person after the effective date of this Act shall at the same time hold under this Act a certificate as a common carrier and a permit as a contract carrier authorizing operation for the transportation of property by motor vehicle over the same route or within the same territory, unless for good cause shown the Commission shall find that such certificate and permit may be held consistently with the public interest.

Section Thirteen. BROKERAGE LICENSES. A. No person shall for compensation sell or offer for sale transportation subject to this act or shall make any contract, agreement or arrangement to provide, procure, furnish or arrange for such transportation or shall hold himself or itself out by advertisement, solicitation, or otherwise as one who sells, provides, procures, contracts, or arranges for such transportation, unless such person holds a broker's license issued by the Commission to engage in such transactions; provided however that no such person shall engage in transportation subject to this Act unless he holds a certificate or permit as provided in this Act. In the execution of any contract agreement or arrangement to sell, provide, procure, furnish or arrange for such transportation, it shall be unlawful for such person to employ any carrier by motor vehicle who or which is not the lawful holder of an effective certificate or permit issued as provided in this Act; and provided further that the provisions of this paragraph shall not apply to any carrier holding a certificate or a permit under the provisions of this Act or to any bona fide employee or agent of such motor carrier, so far as concerns transportation to be furnished wholly by such carrier or jointly with other motor carriers holding like certificates or permits, or with a common carrier by railroad, express or water. B. A brokerage license shall be issued to any qualified applicant therefor, authorizing the whole or any part of the operations covered by the application, if it is found, after public hearing of the application, that the applicant is fit, willing and able properly to perform the service proposed and to conform to the provisions of this act and the requirements, rules and regulations of the Commission thereunder, and the proposed service, to the extent authorized by the license, is or will be consistent with

the public interest and the provisions of this Act; otherwise such application shall be denied. Any broker in operation when this section takes effect may continue such operation for a period of one hundred and twenty days thereafter without a license, and if application for such license is made within such period, the broker may, under such regulations as the Commission shall prescribe, continue such operations until otherwise ordered by the Commission. C. The Commission shall prescribe reasonable rules and regulations for the protection of travellers or shippers and receivers of property by motor vehicle, operated by motor carriers subject to this Act, to be observed by any person holding a brokerage license, and no such license shall be issued or remain in force unless such person shall have furnished a bond or other security approved by the Commission, in such form and amount as will insure financial responsibility and the supplying of authorized transportation in accordance with contracts, agreements or arrangements therefor. D. The Commission and its special agents and examiners shall have the same authority as to accounts, reports and records, including inspection and preservation thereof, of any person holding a brokerage license issued under the provisions of this section, that they have under this act with respect to motor carriers subject thereto. E. It is specifically provided, however, that the word "transportation" as used in this section (13) means the transportation of property by carriers other than common carriers of passengers.

Section Fourteen. **SUSPENSION, CHANGES, REVOCATION AND TRANSFER OF CERTIFICATES, PERMITS AND LICENSE.** A. Certificates, permits and licenses shall be effective from the date specified therein, and shall remain in effect until terminated as herein provided. Any such certificate, permit or license may, upon application of the holder thereof, in the discretion of the Commission be amended or revoked, in whole or in part or may upon complaint, or on the Commission's own initiative, after notice and hearing, be suspended, changed or revoked, in whole or in part, for wilful failure to comply with any provision of this Act, or with any lawful order, rule, or regulation of the Commission promulgated thereunder, or with any term, condition or limitation of such certificate, permit, or license; provided, however, that no such certificate, permit or license shall be revoked (except upon application of the holder) unless the holder thereof wilfully fails to comply within a reasonable time, not less than thirty days, to be fixed by the Commission, with a lawful order of the Commission, made as provided in this Act, commanding obedience to the provisions of this Act, or to the rules or regulations of the Commission thereunder, or to the term, condition or limitation of such certificate, permit or license, found by the Commission to have been violated by such holder.

Section Fifteen. Subject to the provisions of Section 12, any certificate or permit may be transferred or leased pursuant to such rules and regulations as the Commission may prescribe, provided, however, that no such certificate or permit shall be transferred, or lease of any such certificate or permit approved, except after a finding by the Commission that the proposed transferee or lessee is in all respects qualified under the provisions of this Act to conduct the service or operation contemplated by such certificate or permit and that the proposed transfer or the approval of said lease is consistent with the public interest.

Section Sixteen. SECURITY FOR THE PROTECTION OF THE PUBLIC. A. No certificate or permit shall be issued to a motor carrier or remain in force, and no motor carrier subject to the provisions of this Act shall engage in any operation on any highway of this State, unless such carrier complies with such reasonable rules and regulations as the Commission shall prescribe governing the filing and approval of surety bonds, policies of insurance, qualifications as a self-insurer or other securities or agreements, in such reasonable amounts as the Commission may require, conditioned to pay, within the amount of such surety bonds, policies of insurance, qualifications as a self-insurer or other securities or agreements, any final judgment recovered against such motor carrier for bodily injuries to or the death of any person resulting from the negligent operation, maintenance, or use of motor vehicles under certificate or permit, or for loss or damage to property of others. The Commission shall under such rules and regulations as it shall prescribe, require any such common carrier of property other than common carriers or passengers, to file a surety bond, policies of insurance, qualifications as a self-insurer, or other securities or agreements, in the sum to be determined by the Commission, to be conditioned upon such carrier making compensation to shippers and/or consignees for all property belonging to shippers and/or consignees, and coming into the possession of such carrier in connection with its transportation service. Such bond to be not less than \$1,000.00. Any carrier which may be required by law to compensate a shipper and/or consignee for any loss, damage, or default for which a connecting motor carrier is legally responsible shall be subrogated to the rights of such shipper and/or consignee under such bond, policies of insurance, or other securities or agreements, to the extent of the sum so paid. BOND. BOND FOR C.O.D. B. In addition to all other bonds, all common carriers by motor vehicle, other than carriers of passengers, under this Act, must file with the Commission for the protection of the consignor and/or consignee a bond known as a Collect on Delivery Bond in the sum of one thousand (\$1,000.00) dollars, such bond to be made by a surety company qualified to do business in this state.

Section Seventeen. RATES, FARES AND CHARGES OF COMMON CARRIERS BY MOTOR VEHICLE. A. It shall be the duty of every common carrier of passengers by motor vehicle to establish and provide safe and adequate service, equipment and facilities for the intrastate transportation of passengers in the State of Alabama; to establish, observe, and enforce just and reasonable individual and joint rates, fares and charges and just and reasonable regulations and practices relating thereto, and to the issuance, form and substance of tickets and the carrying of personal sample and excess baggage, the facilities for the transportation, and all other matters relating to or connected with the intrastate transportation of passengers in the State of Alabama; and in case of such joint rates, fares and charges, to establish just, reasonable and equitable divisions thereof as between the carriers participating therein, which shall not unduly prefer or prejudice any such participating carriers. B. It shall be the duty of every common carrier of property by motor vehicle to provide safe and adequate service, equipment and facilities for the intrastate transportation of property in the State of Alabama; to establish, observe and enforce just and reasonable rates, charges and classifications, and just and reasonable regulations and practices relating thereto and to the manner and method of presenting, marking, packing, and delivering property for transportation, the facilities for transportation and all other matters relating to or connected with the intrastate transportation of property in the State of Alabama. C. Common carriers of property by motor vehicle may establish reasonable through routes and joint rates, charges and classifications with other such carriers or with common carriers by railroad and/or express and/or water; and common carriers of passengers by motor vehicle may establish joint rates and fares or charges with common carriers by railroad and/or water. In case of such joint rates, fares or charges, it shall be the duty of the carrier parties thereto to establish just and reasonable regulations and practices in connection therewith and just, reasonable and equitable divisions thereof as between the carriers participating therein, which shall not unduly prefer or prejudice any of said participating carriers. D. Any person, state board, organization or body politic may make complaint in writing to the Commission that any such rate, fare, charge, classification, rules, regulation or practice in effect or proposed to be put in effect, is or will be in violation of this section or of Section 18. Whenever, after hearing, upon complaint, or in an investigation on its own initiative, the Commission shall be of the opinion that any individual or joint rate, fare, or charge demanded, charged or collected by any common carrier or carriers by motor vehicle or by any common carrier or carriers by motor vehicle in conjunction with any common carrier or carriers by railroad and/or express, and/or water for transportation in intrastate commerce, or any classifica-

tion, rule, regulation, or practice whatsoever of such carrier or carriers affecting such rate, fare or charge or the value of the service thereunder, is or will be unjust or unreasonable or unjustly discriminatory, or unduly preferential or unduly prejudicial, it shall determine and prescribe the lawful rate, fare or charge or the maximum or minimum, or maxima or minima rate, fare, or charge thereafter to be observed, or the lawful classification, rule, regulation, or practice thereafter to be made effective and the Commission shall, whenever deemed by it to be necessary or desirable in the public interest, after hearing upon complaint or upon its own initiative, without a complaint, establish joint rates, fares, charges, regulations, or practices, applicable to the transportation of passengers by common carrier by motor vehicle, or the maximum or minimum, or maxima or minima, to be charged and the terms and conditions under which such shall be operated. E. Whenever, after hearing, upon complaint or upon its own initiative the Commission is of the opinion that the divisions of joint rates, fares or charges applicable to the transportation in intrastate commerce in this State of passengers or property by common carriers by motor vehicle or by such carriers in conjunction with common carriers by railroad and/or express, and/or water are or will be unjust, unreasonable, inequitable, or unduly preferential or prejudicial as between the carriers parties thereto, (whether agreed upon by such carriers, or any of them, or otherwise established), the Commission shall by order prescribe the just, reasonable, and equitable division thereof to be received by the several carriers, and in cases where the joint rate, fare, or charge was established pursuant to a finding or order by the Commission and the divisions thereof are found by it to have been unjust, unreasonable, or inequitable, or unduly preferential or prejudicial, the Commission may also by order determine what would have been the just, reasonable, and equitable divisions thereof to be received by the several carriers, and require adjustment to be made in accordance therewith. The order of the Commission may require the adjustment of divisions between carriers, in accordance with the order, from the date of filing the complaint or entry or order of investigation or such other date subsequent, as the Commission finds justified and, in case of joint rates prescribed by the Commission, the order as to divisions may be made effective as a part of the original order. F. Whenever there shall be filed with the Commission any schedule stating a new, individual or joint rate, fare, charge or classification for the transportation of passengers or property by a common carrier or carriers by motor vehicle, or by any such carrier and carriers by railroad and/or express and/or water in intrastate commerce, or any rule, regulation or practice affecting such rate, fare, or charge, or the value of the service thereunder, the Commission is hereby authorized and empowered upon complaint of any interested party or upon its own

initiative at once, and if it so orders, without answer or other formal pleading by the interested carrier or carriers, but upon reasonable notice, to enter upon a hearing concerning the lawfulness of such rate, fare, or charge or such rule, regulation or practice, and pending such hearing and the decision thereon, the Commission by filing with such schedule and delivering to the carrier or carriers affected thereby a statement in writing of its reasons for such suspension, may suspend the operation of such schedule and defer the use of such rate, fare, or charge, or such rule, regulation, or practice, for a period of ninety days and if the proceedings have not been concluded and a final order made within such period the Commission may, from time to time, extend the period of suspension by order, but not for a longer period in the aggregate than one hundred and eighty days beyond the time when it would otherwise go into effect; and after hearing, whether completed before or after the rate, fare, charge, classification, rule, regulation, or practice goes into effect, the Commission may make such order with reference thereto as would be proper in a proceeding instituted after it has become effective. If the proceeding has not been concluded and an order made within the period of suspension, the proposed change of rate, fare, or charge, or classification, rule, regulation, or practice, shall go into effect at the end of such period; At any hearing involving a rate, fare, charge or classification, increased or sought to be increased, or involving a rule, regulation, or practice, after the date of the approval of this act, the burden of proof shall be upon the carrier to show that the increased rate, fare, charge, or classification, or the rule, regulation, or practice, is just and reasonable; or the proposed increased rate, fare, charge or classification or rule or regulation or practice is just and reasonable. G. In the exercise of its power to prescribe just and reasonable rates for the transportation of passengers or property by common carriers by motor vehicle the Commission shall give due consideration, among other things, to the effect of rates upon the movement of traffic by such carriers to the need, in public interest, of adequate and efficient transportation service by such carriers at the lowest cost consistent with the furnishing of such service; and the need of revenues sufficient to enable such carriers, under honest, economical and efficient management to provide such service. H. Nothing in this section shall be held to extinguish any remedy or right of action not inconsistent herewith.

Section Eighteen. TARIFFS OF COMMON CARRIERS BY MOTOR VEHICLE. A. Every common carrier by motor vehicle shall file with the Commission, and keep open to the public inspection tariffs showing all the rates, fares and charges for transportation and all services in connection therewith of passengers or property in intrastate commerce in the State of Alabama between points on its own route and between points on its own route and points on

the route of any other such carrier, or on the route of any common carrier by railroad and/or express, and/or water, when a through route and route and joint rate shall have been established. Such rates, fares and charges shall be stated in terms of lawful money of the United States. The tariffs required by this section shall be published, filed and posted in such form and manner and shall contain such information as the Commission by reasonable regulation shall prescribe; and the Commission is authorized to reject any tariff filed with it which is not in consonance with this section and with such regulations. Any tariff so rejected by the Commission shall be void and its use shall be unlawful. B. Except as otherwise provided by law, no common carrier by motor vehicle shall charge or demand or collect or receive a greater or less or different compensation for transportation or for any service in connection therewith between the points enumerated in such tariff than the rates, fares and charges specified in the tariffs in effect at the time; and no such carrier shall refund or remit in any manner or by any device, directly or indirectly, or through any agent or broker or otherwise, any portion of the rates, fares or charges so specified, or extend to any person any privileges or facilities for transportation in intrastate commerce in this state, except such as are specified in its tariffs. B-1. No common carrier, subject to the provisions of this Act shall directly or indirectly issue or give an intrastate free ticket, free pass or free transportation for passengers except to its officers, employees and agents and their families, its surgeons, physicians and attorneys at law; to ministers of religion, inmates of charitable and eleemosynary institutions; to persons totally blind, to indigent, destitute and homeless persons, and to such persons when transported by charitable societies or hospitals, and caretakers of and caretakers of livestock, poultry, milk and fruit; to witnesses attending any legal investigation in which the common carrier is interested, persons injured in wrecks and physicians and nurses attending such persons; to members of the Commission and such of their employees as may be designated by them to assist the Commission in their duties under this Act, and the members of the Commission and each of their employees as are designated by them to assist the Commission in the performance of their duties under the Act, shall be entitled to free transportation within the state upon any motor vehicle of any common carrier subject to the provisions of this Act; provided, that this provision shall not be construed to prohibit the interchange of passes for the officers, agents and employees of common carriers of passengers by motor vehicle, and their families; nor prohibit any common carrier from carrying passengers or property free or at reduced rates with the object of providing relief in case of general epidemic, pestilence, or other calamitous visitation; an provided further that nothing in this Act shall prevent the carriage, storage, or handling of prop-

erty free or at reduced rates for the United States, State, county or municipal governments, or for charitable purposes, or to or from fairs, and expositions for exhibition thereat, or the issuance of mileage, excursion, or commutation passenger tickets; provided however, such mileage, excursion or commutation tickets shall be obtainable by all persons applying therefor under like circumstances and conditions; and provided further, that if special or reduced rates are granted under the provisions of this Act, said companies shall file with the Commission a statement setting forth the terms and conditions upon which they grant such special or reduced rates. Any common carrier violating this provision shall be deemed guilty of a misdemeanor and for each offense, on conviction, shall pay to the State of Alabama a penalty of not less than one hundred dollars or more than two thousand dollars, and any person other than the person excepted in this provision, who uses any such intrastate free ticket, free pass, or free transportation shall be subject to a like penalty. C. No change shall be made in any rate, fare, charge, or classification, or any rule, regulation, or practice affecting such rate, fare, charge, or classification, or the value of the service thereunder, except after thirty days' notice of the proposed change filed and posted in accordance with Paragraph A of this section. Such notice shall plainly state the change proposed to be made and the time when such change will take effect. The Commission may in its discretion and for good cause shown allow such change upon notice less than herein specified or modify the requirements of this section with respect to posting and filing of tariffs either in particular instances or by general order applicable to special or peculiar circumstances or conditions. D. No common carrier by motor vehicle, unless otherwise provided by this Act, shall engage in the transportation of passengers or property unless the rates, fares and charges upon which the same are transported by said carrier have been filed and published in accordance with the provisions of this Act.

Section Nineteen. SCHEDULES OF CONTRACT CARRIERS BY MOTOR VEHICLES. A. It shall be the duty of every contract carrier by motor vehicle to file with the Commission, publish and keep open for public inspection, in the form and manner prescribed by the Commission, schedules, or in the discretion of the Commission, copies of contracts containing the minimum charges of such carrier for the transportation of passengers or property in intrastate commerce in this state and any rule, regulation, or practice affecting such charges and the value of the service thereunder. No such contract carrier, unless otherwise provided by this act, shall engage in the transportation of passengers or property in intrastate commerce in this State unless the minimum charges for such transportation by said carrier have been published, filed and posted in accordance with the provisions of this Act. No re-

duction shall be made in any such charge either directly or by means of any change in any rule, regulation or practice affecting such charge or the value of service thereunder, except after twenty days' notice of the proposed change filed in the aforesaid form and manner; but the Commission may in its discretion and for good cause shown allow such change upon less notice, or modify the requirements of this paragraph with respect to posting and filing of such schedules or copies of contracts either in particular instances, or by general order applicable to special or peculiar circumstances or conditions. Such notice shall plainly state the change proposed to be made and time when such change will take effect. No such carrier shall demand, charge, or collect a less compensation for such transportation than the charges filed in accordance with this paragraph, as affected by any rule, regulation or practice so filed or as may be prescribed by the Commission from time to time, and it shall be unlawful for any such carrier, by the furnishing of special services, facilities, or privileges, or by any other device whatsoever, to charge, accept or receive less than the minimum charges so filed or prescribed; provided however that any such carrier or carriers, or any class or group thereof, may apply to the Commission for relief from the provisions of this paragraph, and the Commission may after hearing grant such relief to such an extent and for such time and in such manner as in its judgment is consistent with public interest and the provisions of this Act. B. Whenever, after hearing upon complaint or its own initiative the Commission find that any charge of any contract carrier by motor vehicle, or any rule, regulation or practice of any such carrier or carriers affecting such charge, or the value of the service thereunder, for the transportation of passengers or property in intrastate commerce in this state, is not consistent with the public interest the Commission may prescribe such minimum charge, or such rule, regulation or practice as in its judgment may be necessary or desirable in the public interest. Such minimum charge, or such rule, regulation or practice, so prescribed by the Commission shall give no advantage or preference to any such carrier in competition with any common carrier by motor vehicle subject to this act, which the Commission may find to be undue or inconsistent with public interest, and the Commission shall give due consideration to the cost of the service rendered by such carriers and to the effect of such minimum charge, or such rules, regulations, or practices, upon the movement of traffic by such carriers. All complaints shall state fully the facts complained of and the reasons for such complaint and shall be made under oath. C. Whenever there shall be filed with the Commission by any such contract carrier any schedule or contract stating a reduced charge directly or by means of any rule, regulation or practice for the transportation of passengers or property in intrastate commerce, the Commission is hereby authorized

and empowered upon complaint of interested parties or upon its own initiative at once, and, if it so orders, without answers or other formal pleading by the interested party, but upon reasonable notice, to enter upon a hearing concerning the lawfulness of such charge or such rule, regulation or practice and pending such hearing and the decision thereon the Commission, by filing with such schedule or contract and delivering to the carrier affected thereby a statement in writing of its reasons for such suspension, may suspend the operation of such schedule or contract and defer the use of such charge, or such rule, regulation, or practice, for a period of ninety days, and if the proceeding has not been concluded and a final order made within such period the Commission may, from time to time extend the period of such suspension, but not for a longer period in the aggregate than one hundred and eighty days beyond the time when it would otherwise go into effect; and after hearing, whether completed before or after the charge, or rule, regulation, or practice goes into effect, the Commission may make such order with reference thereto as would be proper in a proceeding instituted after it had become effective. If the proceeding had not been concluded and an order made within the period of suspension, the proposed change in any charge, rule, regulation, or practice shall go into effect at the end of such period.

Section Twenty. ACCOUNTS, RECORDS AND REPORTS.

A. The Commission is hereby authorized to require annual, periodical, or special reports from all motor carriers, to prescribe the manner and form in which such reports shall be made, and to require from such carrier specific answers to all questions upon which the Commission may deem information to be necessary. Such reports shall be under oath whenever the Commission so requires. The Commission may also require any motor vehicle carrier to file with it a true copy of each or any contract, agreement, or arrangement between such carrier and any other carrier or person in relation to any traffic affected by the provisions of this Act, to which he or it may be a party. B. The Commission may, in its discretion, prescribe the forms of any and all accounts, records, and memoranda to be kept by motor carriers and the length of time such accounts, records, and memoranda shall be preserved, including the accounts, records and memoranda of the movement of traffic, as well as of the receipts and expenditures of money. The Commission or its duly authorized agents shall at all times have access to all lands, buildings, or equipment of motor carriers used in connection with intrastate operations and also all accounts, records, and memoranda, including all documents, papers, and correspondence now or hereafter existing and kept, or required to be kept, by motor carriers. The Agents of the Commission shall have authority under its order to inspect and examine any and all such lands, buildings, equipment, accounts, records and memoranda, in-

cluding all documents, papers, correspondence now or hereafter existing and kept or required to be kept by such carriers; this provision shall apply to receivers of carriers and to operating trustees and, to the extent deemed necessary by the Commission, to persons having control, direct, or indirect, over or affiliated with any motor carriers. C. As used in this section the term "motor carrier" includes brokers.

Section Twenty-One. Every common carrier by motor vehicle subject to the provisions of this Act receiving property for transportation originating and terminating in this State shall issue to the shipper a receipt or bill of lading therefor, and shall be liable as a common carrier under the laws of this State to the lawful holder thereof for any loss, damage or injury to such property caused by it; and no contract, stipulation, receipt, rule or regulation contained in said receipt or bill of lading, or otherwise, shall exempt such common carrier from the liability hereby imposed; but nothing in this section shall deprive any holder of such receipt or bill of lading of any remedy or right of action which he has under existing law. Every bill of lading so issued to the shipper shall state the class or classes of freight or express shipped and the rate to the point of destination and the aggregate charge made for the transportation. The Commission shall prescribe the forms and contents of bills of lading receipts, expense bills and other records, to be used by such common carriers subject to the provisions of this Act and to make all proper rules and regulations with respect thereto which may be necessary or proper to secure the safe receipt, handling, transportation and delivery of property by such common carriers upon just and reasonable terms, and such records shall be subject to inspection by the Commission.

Section Twenty-Two. **ORDERS OF THE COMMISSION.** A. Except as otherwise provided in this Act, all orders of the Commission shall take effect within such reasonable time as the Commission may prescribe, and shall continue in force until its further order, or for a specified period of time, according as shall be prescribed in the order, unless the same shall be suspended or modified or set aside by the Commission, or be suspended or set aside by a court of competent jurisdiction. B. As used in this section the term "motor carriers" includes brokers.

Section Twenty-Three. **UNLAWFUL OPERATION.** A. Any person knowingly and willfully violating any provision of this act, or any rule, regulation, requirement, or order thereunder or any term or condition of any certificate, permit, or license, for which a penalty is not otherwise herein provided, shall upon conviction thereof, be fined not more than \$100 for the first offense and not more than \$500 for any subsequent offense. Each day of such violation shall constitute a separate offense. B. If any motor carrier or broker operates in violation of any provision of this act (except

as to the reasonableness of rates, fares, or charges and discriminatory character thereof), or any rule, regulation or requirement, or order thereunder, or of any term or condition of any certificate of permit, the Commission or its duly authorized agency may apply to the Circuit Court of the State of Alabama for any county where such motor carrier or broker operates, for the enforcement of such provision of this act, or of such rule, regulation, requirement, order, term or condition ; and such court shall have jurisdiction to enforce obedience thereto by a writ of injunction or by other process, mandatory or otherwise, restraining such carrier or broker, his or its officers, agents, employees, and representatives from farther violation of such provision of this act or of such rule, regulation, requirement, order, term, or condition and enjoining upon it or them obedience thereto. C. Any person, whether carrier, shipper, consignee, or broker, or any officer, employee, agent, or representative thereof, who shall knowingly offer, grant, or give, or solicit, accept, or receive any rebate, concession, or discrimination in violation of any provision of this Act, or who by means of any false statement or representation, or by use of any false or fictitious bill, bill of lading, receipt, voucher, roll, account, claim, certificate, affidavit, deposition, lease or Bill of Sale, or by any other means or device, shall knowingly and wilfully assist suffer or permit any person or persons, natural or artificial, to obtain transportation of passengers or property subject to this act for less than the applicable rate, fare, or charge, or who shall knowingly and wilfully by any such means or otherwise fraudulently seek to evade or defeat regulations as in this Act provided for motor carriers or brokers, shall be deemed guilty of a misdemeanor and upon conviction thereof be fined not more than \$100 for the first offense and not more than \$1000 for any subsequent offense. D. Any agent or employee of the Commission who divulges any fact or information which may come to his knowledge during the course of the examination of the accounts, records, and memoranda of motor carriers or brokers as provided in this act, except as he may be directed by the Commission or by a court of competent jurisdiction or judge thereof, shall be subject, upon conviction in any court of the State of Alabama of competent jurisdiction, to a fine of not more than \$1000. E. It shall be unlawful for any motor carrier or broker engaged in intrastate commerce or any officer, receiver, trustee, lessee, agent, or employee of such carrier, broker, or person, or any other person authorized by such carrier, broker, or person to receive information, knowingly to disclose to, or permit to be acquired by any person other than the shipper or consignee without the consent of such shipper or consignee any information concerning the nature, kind, quantity, destination, consignee, or routing of any property tendered or delivered to such motor carrier or broker for such transportation, which information may be used to the detriment or

prejudice of such shipper or consignee, or which may improperly disclose his business transaction to a competitor, and it shall be unlawful for any person to solicit or knowingly receive any such information which may be so used. F. Nothing in this act shall be construed to prevent the giving of such information in response to any legal process issued under the authority of any court, or to any officer or agent of the Government of the United States or of any State, or to any officer or agent of the Government of the United States or of any State, territory, or district thereof, in the exercise of his power, or to any officer or other duly authorized person seeking such information for the prosecution of persons charged with or suspected of crimes or to another carrier or broker or its duly authorized agent, for the purpose of adjusting mutual traffic accounts; in the ordinary course of business of such carriers or brokers. G. Any motor carrier or broker, or any officer, agent, employee, or representative thereof who shall wilfully fail or refuse to make a report to the Commission as required by this act, or to keep accounts, records, and memoranda in the form and manner approved or prescribed by the Commission, or shall knowingly and wilfully falsify, destroy, mutilate, or alter any such report, account, record, or memorandum, or shall knowingly and wilfully file any false report, account record or memorandum, shall be deemed guilty of a misdemeanor and upon conviction thereof be subject for each offense to a fine of not more than \$5000.

Section Twenty-Four. COLLECTION OF RATES AND CHARGES. No common carrier by motor vehicle shall deliver, or relinquish possession at destination of any freight transported by it in intrastate commerce until all tariff rates and charges thereon have been paid, except under such rules and regulations as the Commission may from time to time prescribe to govern the settlement of all such rates and charges, including rules and regulations for weekly or monthly settlement, and to prevent unjust discrimination or undue preference or prejudice; provided, that the provisions of this paragraph shall not be construed to prohibit any such carrier from extending credit in connection with rates and charges on freight transported for the United States, for any department, bureau, or agency thereof, or for any state or political subdivision thereof. Where any common carrier by motor vehicle is instructed by a shipper or consignor to deliver property transported by such carrier to a consignee other than the shipper or consignor, such consignee shall not be legally liable for transportation charges in respect to the transportation of such property, (beyond those billed against him at the time of delivery for which he is otherwise liable) which may be found to be due after the property has been delivered to him if the consignee (a) is an agent only and has no beneficial title in the property, and (b) prior to delivery of the property, has notified the delivering carrier in writing of the fact of such agency

and absence of beneficial title, and in the case of shipment re-consigned or diverted to a point other than that specified in the original bill of lading, has also notified the delivering carrier in writing of the name and address of the beneficial owner of the property. In such cases the shipper or consignor, or, in cases of a shipment so re-consigned or diverted, the beneficial owner, shall be liable for such additional charges, notwithstanding the foregoing provisions of this paragraph. On shipments re-consigned or diverted by an agent who has furnished the carrier with a notice of agency and the proper name and address of the beneficial owner, and where such shipments are refused or abandoned at ultimate destination, said beneficial owner shall be liable for all legally applicable charged in connection therewith.

Section Twenty-Five. The Commission is authorized to employ such assistants and employees as are necessary to aid the commission in the proper administration and enforcement of this Act, subject to the provisions of the Merit System Act.

Section Twenty-Six. The Commission is empowered to designate by its order such of its employees to act as examiners under this Act as may be found to be necessary or desirable. Each of the Commissioners, and any employee designated as Examiner by the Commission, for the purposes mentioned in this Act and in all hearings before the Commission, may administer oaths, certify to official acts, issue subpoenas, compel the attendance of witnesses and the production of books and papers.

Section Twenty-Seven. From any final action or order of the Commission in the exercise of the jurisdiction, power, authority, conferred upon the Commission by this Act, an appeal shall lie to the Circuit Court of the County of the carrier's residence, or in which he has his principal place of business or to the Circuit Court of Montgomery County, Alabama, sitting in equity, and thence to the Supreme Court of Alabama. Such appeals must be taken within thirty days after the date of such final action or order and such appeals and the supercedes and stay of action or order appealed from in other respects shall be governed by the provisions of the law now in force, or hereafter enacted, respecting appeals in other cases from the final order and actions of the commission.

Section Twenty-Eight. For the extra, new and additional duties imposed upon the commission and the members thereof by this Act, and for the performance of duties which are and will be hereafter required of said commission and the members thereof hereunder, each member of the Commission, in addition to the compensation otherwise provided by law to be paid to him for his service as a member of the Commission, shall receive one thousand dollars (\$1,000) annually, to be paid monthly as the salaries of other officers are paid, out of the monies of the State Treasury provided by law for payment of salaries and other expenses of the

Commission, which additional sum is to take the place of the sum now received by each member of the Commission under the Alabama Motor Carrier Act of 1927 and/or the Alabama Motor Carrier Act of 1931, which said acts are hereby repealed.

Section Twenty-Nine. There is hereby appropriated out of the monies of the State Treasury to the credit of the "Motor Carrier Fund" the sum of Fifty Thousand Dollars annually, to meet the expense incurred by the Alabama Public Service Commission under the provisions of this Act. The expenses incurred by the Alabama Public Service Commission under the provisions of this Act when certified by the Commission or its President, and approved by the Governor, shall be paid on warrant drawn as prescribed by law with respect to warrants. Said appropriation as provided hereunder shall be in addition to the appropriation for said Commission provided under Senate Bill 239 of Regular Session of the Legislature of Alabama.

Section Thirty. FEES. In addition to all of the taxes and fees prescribed by law, motor carriers shall pay to the Commission under the provisions of this Act the following: A. Every application for a certificate of public convenience and necessity or permit under this Act except applications of motor carriers or predecessors in interest, in bona fide operation prior to the effective date of this Act which are filed under the provisions of Sections Eight A and Eleven A hereof shall be accompanied by an application fee in the amount of \$10.00 (Ten Dollars). B. Every application for an amendment of a certificate of public convenience and necessity or permit shall be accompanied by an application fee in the amount of Ten Dollars (\$10.00). C. Every application for transfer of a certificate of public convenience and necessity, or permit shall be accompanied by a fee of Twenty-Five Dollars (\$25.00). D. Every application for approval of a lease of a certificate of public convenience and necessity for a period of more than six months shall be accompanied by a fee of Ten Dollars (\$10.00). E. For every motor vehicle to be used by a motor carrier on the highway of the State of Alabama there shall be paid a registration fee in the amount of One Dollar, and the Commission is given authority to adopt reasonable rules and regulations for the issuance of an appropriate or distinguishing plate or tag for each such motor vehicle upon which the registration fee prescribed by this Act shall have been paid, and such registration or distinguishing plate or tag shall remain with the motor vehicle for which it was issued and shall be non-transferable. It shall be unlawful for any motor vehicle to be operated on the highways of this State without having conspicuously displayed on the front or rear thereof a registration or distinguishing plate or tag duly prescribed and issued for such vehicle by the Commission under the provisions of this Act, provided however that one such registration or distinguishing plate or tag as

provided for by this section shall be issued for each distinguishing plate or identification tag previously issued by the Commission and properly in use by motor carriers holding certificates or public convenience and necessity issued by the Commission or permits theretofore issued, under such reasonable rules and regulations as the Commission may prescribe, but no plate or tag previously issued will be replaced under this proviso until it is determined by the Commission that the carrier holding such plate or tag previously issued is entitled to a certificate or permit under this Act, and pending such determination the use of any such plate or tag previously issued and properly in use on the effective date of this Act, shall be lawful. If in any proceeding in which a motor carrier operating on the effective date of this Act, or prior thereto is seeking a certificate or permit hereunder, it is found that the applicant is not entitled to such certificate or permit and application therefor is denied them in that event, any and all distinguishing plates or identification tags previously issued to such carrier will be void. E. All said tax penalties, fees, allowances collected under this Act shall be paid into the State Treasury within thirty days after their receipt and shall be kept separate and apart from all other funds by the State Treasury in a fund to be known as the "Motor Carrier Fund."

Section Thirty-One. MUNICIPALITIES. Any incorporated city or town in this State shall have the right by proper ordinance to tax and collect reasonable privileged license or taxes from any motor bus terminal, or any person operating any terminal or station facilities for transportation of passengers, property or express, transported by motor carriers, and any motor carrier as defined by this Act where such motor carrier does business in said city or town by receiving passengers or freight for transportation for hire between said city or town and another point in Alabama, provided, however, that said privilege license or tax shall not exceed the sum of \$25.00 in incorporated cities or towns of less than 5,000 inhabitants, and that said privilege license or tax shall not exceed the sum of \$100.00 in incorporated cities or towns of over 5,000 and less than 25,000 inhabitants; and that said privilege license or tax shall not exceed the sum of \$200.00 in incorporated cities or towns of more than 25,000 and less than one hundred thousand inhabitants; and that said privilege license or tax shall not exceed the sum of \$300.00 in incorporated cities or towns of over one hundred thousand inhabitants; and that the population shall be computed on the federal census of 1930 or any subsequent decennial federal census; and provided further that said privilege license or tax shall, in cases of motor buses, include the privilege of receiving and discharging both passengers and express.

Section Thirty-Two. The Commission is given the power and authority to make such general rules and regulations not incorpo-

rated herein or inconsistent herewith by general order or otherwise as may be necessary to carry out the provisions of this Act, and may on their own initiative inquire into and enforce all provisions of this Act. A substantial compliance by the Commission with the requirements of this Act shall be sufficient to give effect to all rules, orders, acts and regulations of the Commission and they shall not be declared inoperative, illegal or void for any omission of a technical nature, in respect thereto.

Section Thirty-Three. This Act shall be known as and may be cited as the "Alabama Motor Carrier Act of 1939."

Section Thirty-Four. The Act approved August 23, 1927 and known as the Alabama Motor Carrier Act of 1927, and the Act approved June 19, 1931 and known as the Alabama Motor Carrier Act of 1931, and the Act approved October 28, 1932, General Acts of Alabama, Extra Session 1932, pp 178-190 are hereby expressly repealed.

Section Thirty-Five. All laws or parts of laws in conflict or inconsistent with the provisions of this Act are hereby expressly repealed.

Section Thirty-Six. If any clause, sentence, paragraph or part of this Act shall for any reason be adjudged by any Court of competent jurisdiction to be invalid, such judgment shall not effect, impair or invalidate the remainder of this act; but shall be confined in its operation to the clause, sentence, paragraph or part thereof directly involved in the controversy in which judgment has been rendered.

Section Thirty-Seven. This Act shall become effective ninety (90) days after the approval of same by the Governor.

Approved July 5, 1940.

No. 670)

(H. J. R. 146—Welch

HOUSE JOINT RESOLUTION

RESOLVED by the House, the Senate concurring, that the Secretary of State, the Doorkeeper of the House, and the Doorkeeper of the Senate, be, and they are hereby relieved of responsibility and liability for the Codes and other books placed on the desks of members of the House and Senate for their use during this session of the Legislature.

Approved July 10, 1940.

INTEREST LAWS AND STATUTES OF LIMITATION

	Interest Laws		Statutes of Limitation		
	Legal Rate	Rate Allowed by Contract	Judgments Years	Notes Years	Open Accounts Years
Alabama	6	8	20	6	3
Alaska	6	10	10	6	6
Arizona	6	8	5	6	3
Arkansas	6	10	3-10	5	3
California	7	10	5	4	4
Colorado	6	2 ¹ / ₂	6-20	6	6
Connecticut	6	12	20	6	6
Delaware	6	2 ¹ / ₂	10	6	3
District of Columbia	6	8	12	3	3
Florida	8	10	20	5	3
Georgia	7	8	7	6	4
Hawaii	8	12			
Idaho	6	8	6	5	4
Illinois	5	7	20	10	5
Indiana	6	8	20	10	6
Iowa	5	7 ²² / ₂₇	20	10	5
Kansas	6	10	5	5	3
Kentucky	6	10 ¹⁰ / ₆	15	5-15	5
Louisiana	5	8 ²⁴ / ₈	10	5-10	3
Maine	6	1	20	6-20	6
Maryland	6	6 ¹ / ₆	12	3-12	3
Massachusetts	6	1 ¹ / ₂	20	6	6
Michigan	5	7	10	6	6
Minnesota	6	8	10	6	6
Mississippi	6	8	7	6	3
Missouri	6	8	10	10	5
Montana	6	10	10	8	5
Nebraska	6	20 ⁹ / ₉	5-10	5	4
Nevada	7	12	6	6	4
New Hampshire	6	1 ¹ / ₂ 28	20	6	6
New Jersey	6	6 ³ / ₆	20	6	6
New Mexico	6	12	7	6	4
New York	6	12 ²⁶ / ₂₆	20	6	6
North Carolina	6	6	10	3	3
North Dakota	4	7	10	6	6
Ohio	6	8	26 ¹⁰ / ₁₀	15	6
Oklahoma	6	10	5	5	3
Oregon	6	10	10	6	6
Pennsylvania	6	11 ⁶ / ₆	20	6	6
Philippine Islands	6	12	10	10	6
Puerto Rico	6	12			
Rhode Island	6	14	20	6	6
South Carolina	6	7	20	6	6
South Dakota	6	8	10-20	6	6
Tennessee	6	10 ¹⁰ / ₆	10	6	6
Texas	6	10	10	4	2

INTEREST LAWS AND STATUTES OF LIMITATION—Continued

	Interest Laws		Statutes of Limitation		
	Legal Rate	Rate Allowed by Contract	Judgments Years	Notes Years	Open Accounts Years
Utah	6	10	8	6	4
Vermont	6	6	8	6-14	6
Virginia	6	6	10	5	3
Washington	6	12	6	6	3
West Virginia	6	6	10	10	5
Wisconsin	6	10	10-20	6	6
Wyoming	7	10	5	10	8

¹Any rate.

²On Collateral demand loans of \$5,000 and over, any rate of interest agreed upon in writing is legal. Licensed loan brokers may charge 6% on loans not exceeding \$500 with an additional investigation fee not to exceed 2%.

³Must be revived every ten years to continue as a lien on real estate.

⁴Under Small Loan Act as amended 1935 interest on loans up to \$300 may be charged at the rate of 1½% per month.

⁵Reference to laws governing revival 20 years where return is made on any execution; 10 years where no return is made; 1 year if no execution is issued; judgments can be revived by scirefacias at any time in 10 years.

⁶A corporation may agree to pay any rate of interest and may not plead usury.

⁷Licensed Loan Brokers may charge 3½% per month on loans up to \$300.

⁸Corporations cannot plead usury.

⁹No limitations on judgments obtained in this state against foreign corporations.

¹⁰Must be renewed every three years to continue as a lien on real estate.

¹¹A corporation cannot plead usury. Under small loan act (\$300 minimum) interest rate is 2½% per month.

¹²Becomes dormant five years after rendition of the judgment, or the issuance of the last execution, or the filing of the last certificate of judgment with the Clerk of Courts in any county, whichever date may be later, and may be revived within twenty-one years after becoming dormant.

¹³Loans up to \$150.00, 3% per month; loans over \$150.00, 2% per month. Corporation cannot plead usury as a defense.

¹⁴Must be revived every five years after entry, to retain lien on real estate.

¹⁵12% when there is security; 14% when there is no security.

¹⁶Licensees under Small Loan Act may loan up to \$300.00 and charge interest, not in advance, at 3% per month on unpaid principal balance. Loans made in violation of interest statutes are usurious and can not be collected.

¹⁷Under Small Loans Act (\$300 maximum) interest of 3% a month may be contracted.

- ¹⁶Licensed Loan Company may charge up to 1% per month for necessary expenses of closing loans plus 6% interest annually or 1½% per month.
- ¹⁷Corporations not entitled to set up defense of usury. Under Small Loan Act (\$300 maximum) interest rate is 3½% per month on the first \$150.00, or remaining balance, and 2½% per month on rest.
- ¹⁸Notes: 10 years, Contracts in writing other than for payment of money: 20 years.
- ¹⁹Section 883-i-14 of the Kentucky Statutes provide that a petty loan company, properly licensed may lend not exceeding \$300.00 on an interest rate of 3½% per month on any part of the unpaid principal balance not in excess of \$150.00 and 2½% per month on the remainder.
- ²⁰See "Chattel Loans" under Nebraska Laws.
- ²¹Any rate agreed upon is legal on loans over \$300 but Colorado courts decline to endorse grossly unreasonable rates.
- ²²Under the Small Loan Act licensees may charge interest at not to exceed 3% per month upon any unpaid balance of the principal of the loan not exceeding \$150 and 2% per month on any part of the loan in excess of \$150 and not exceeding \$300.
- ²³A judgment of a court of record is a lien on real estate for ten years after the rendition thereof.
- ²⁴Under small money lenders act, interest on loans up to \$300 may be charged at the rate of 3½% per month. Act No. 40 of 1924.
- ²⁵Under small loan act as amended 1933 interest on loans up to \$300 may be charged at rate of 2% per month.
- ²⁶Any rate agreed upon in writing is legal on collateral demand loans of \$5,000.00 and over.

OFFICIALS OF THE STATE OF ALABAMA

FRANK M. DIXON, *Governor*

- Lieutenant-Governor*—A. A. Carmichael, Montgomery
Attorney General—T. S. Lawson, Montgomery
State Auditor—Howell Turner, Camden
Secretary of State—John Brandon, Montgomery
State Treasurer—Charles E. McCall, Montgomery
Superintendent of Education—A. H. Collins, Montgomery
Commissioner of Agriculture and Industries—Haygood Paterson, Montgomery
Adjustment, State Board of—A. R. Forsyth, Director of Finance, Chairman; John Brandon, Secretary of State, Secretary; Chas. E. McCall, State Treasurer.
Adjutant General—Major Ben M. Smith, Birmingham
Adviser, Legal, to Governor—J. M. Bonner, Camden
Alabama Bridge Commission (an agency of State of Alabama)—E. Roy Albright, Mobile
Alabama Public Schools Corporation—A. R. Forsyth, Director of Finance; John C. Curry, Commissioner of Revenue; A. H. Collins, Superintendent of Education
Alcoholic Beverage Control Board, Alabama—Roy E. Albright, Mobile, Chairman; William Lawrence, Montgomery; B. B. Burton, Birmingham; Wilbur L. DeVan, Administrator, Montgomery
Architects, State Board for Registration of—Paul W. Hofferbert, Gadsden; Clyde Pearson, Montgomery, Secretary
Archives and History, Department of—Mrs. Marie Bankhead Owen, Director, Montgomery
Armory Commission, State—Frank M. Dixon, Montgomery.
Athletic Commission, Alabama—D. Trotter Jones, Montgomery
Aviation Commissioner—E. Ralph Dowling, Dothan
Banks, Superintendent of—Jas. B. Little, Montgomery
Building and Loan Bureau—Jas. B. Little, Montgomery
Chemist, State—Dr. C. L. Hare, Auburn
Commerce, Department of—Jas. B. Little, Montgomery, Director; Superintendent of Banks, Jas. B. Little, Montgomery; Superintendent of Insurance, Frank N. Julian, Montgomery; Bureau of Building & Loan, Jas. B. Little, Montgomery
Comptroller, State—I. C. Heck, Montgomery
Conservation Department—Dr. Walter B. Jones, Montgomery, Director; Chief of the Division of Game, Fish and Seafoods, Ben C. Morgan, Montgomery; Chief of the Division of State Parks, Monuments and Historical Sites, W. G. Lunsford, Montgomery; Chief, Division of Forestry, J. Brooks Toler, Montgomery

- Contracting, State Licensing Board for General*—Chas. A. Long, Bessemer; Ed Pettus, Montgomery
- Corrections and Institutions, Department*—Wm. E. Persons, Director, Montgomery
- Docks and Terminals, State*—C. E. Sauls, Director, Mobile
- Education, State Board*—Frank M. Dixon, Chairman
- Embalmers, State Board*—J. Robert McGehee, Troy
- Engineers and Land Surveyors, State Board of Registration of Professional*—J. M. Gallalee, Tuscaloosa
- Finance Department*—A. R. Forsyth, Director, Montgomery; Purchasing Agent, M. W. Hutchings, Montgomery; Comptroller, State, I. C. Heck, Montgomery; Chief Examiner of Public Accounts, B. P. Singleton, Montgomery; Budget Officer, C. H. Abbott, Montgomery; Chief of Service, J. D. Reese, Jr., Montgomery; Chief, Local Finance, Ed Crosland, Montgomery
- Fire Marshal, State*—Frank N. Julian, Supt. of Insurance, Ex-Officio Fire Marshal; Chief Deputy, Fred Martin, Birmingham; Deputies, James Wm. Jones, Alabama City; Lennard S. Thomas, Montgomery; Brooks Glass, Montgomery; Berry Shedd, Russellville
- Forestry, Division of*—J. Brooks Toler, Montgomery, Chief
- Game, Fish and Seafoods, Division*—Ben C. Morgan, Montgomery, Chief
- Geologist, State, Asst.*—Stewart J. Lloyd, University
- Health Department, State*—Dr. J. N. Baker, State Health Officer; Director, Bureau of Communicable Disease Control, Dr. D. G. Gill, Montgomery; Director, Bureau of Hygiene and Nursing, Dr. B. F. Austin, Montgomery; Director, Bureau of Laboratories, Dr. Samuel R. Damon, Montgomery; Director, Bureau of Sanitation, George H. Hazlehurst, Montgomery; Director, Bureau of Vital Statistics, Leonard V. Phelps, Montgomery
- Highway Department, State*—Chris J. Sherlock, Montgomery, Director; Construction Engineer, William Herzberg, Montgomery; Office Engineer, W. G. Pruett, Montgomery; Maintenance Engineer, Marvin Taylor, Montgomery; Engineer of Plans and Surveys, S. W. Harbin, Montgomery; Superintendent of Equipment, H. B. Quinn, Montgomery; Financial Secretary, H. R. Cogdell, Montgomery
- Industrial Relations, Department*—John D. Petree, Montgomery, Director; Chief, Unemployment Compensation Division, Amos N. Kirby, Montgomery; Chief, Employment Service, C. F. Anderson, Montgomery; Chief, Labor Division, Wm. H. Ivey, Montgomery; Chief, Compensation Unit, John P. Kohn, Sr., Montgomery; Chief, Safety and Inspection Division, E. J. McCrossin, Birmingham
- Insane Hospitals, Alabama*—W. D. Partlow, Supt., Tuscaloosa.

- Insurance, Superintendent*—Frank N. Julian, Montgomery; James Curtis McPherson, Deputy, Montgomery; Ex-Officio Fire Marshal (See Fire Marshal, State) Frank N. Julian
- Labor, Division of*—Wm. H. Ivey, Montgomery, Chief
- Land Commissioner, State*—John C. Curry, Montgomery
- Medical Technicians, Board*—Mrs. Ivy T. McBride, Fairfield
- Memorial Commission, Alabama*—Thomas W. Martin, Birmingham
- Milk Control Board*—Frank M. Stewart, Executive Secretary, Montgomery
- Mine Inspector, Chief*—E. J. McCrossin, Birmingham; Associates, W. L. Neill, Birmingham; J. A. Ivie, Birmingham
- Nurses Board of Examiners and Registration of Graduate Nurses*—Dr. Stuart Graves, University; Mrs. Jewel Thrasher, Dothan
- Optometry, State Board*—G. W. Blakey, Dothan
- Pardons and Paroles, State Board*—Alex Smith, Montgomery, Chairman; Mrs. Edwina Mitchell, Montgomery; R. M. Hill, Montgomery; W. P. Shirley, Executive Secretary
- Parks, Monuments and Historical Sites*—W. G. Lunsford, Montgomery
- Pension Commission*—T. S. Lawson, Attorney General, Chairman; A. R. Forsyth, Director of Finance; Mrs. Marie Bankhead Owen, Director Department of Archives and History
- Personnel Department*—I. J. Browder, Director, Montgomery; John F. Steiner, Deputy, Montgomery. *Personnel Board*—Grover C. Hall, Montgomery; Thos. E. Kilby, Anniston; John H. Peach, Decatur
- Pharmacy, Member State Board*—Forest Little, Wetumpka
- Pilotage Commission, State*—N. D. Cunningham, Mobile
- Planning Commission, State*—A. J. Hawkins, Director, Montgomery; J. E. Dixon, Montgomery, Supervisor
- Plumbers, Journeyman, Member Board of Examination and Registration*—Richard Reeder, Montgomery; L. C. Jones, Mobile
- Plumbers, Member Board of Examination and Registration*—W. C. Callahan, Montgomery; Dan Armstrong, Montgomery
- Public Accountancy, State Board*—Wm. J. Christian, Birmingham
- Public Accounts, Chief Examiner*—B. P. Singleton, Montgomery
- Public Service Commission, Alabama*—Hugh White, President, Montgomery; Fitzhugh Lee, Associate, Montgomery; W. C. Harrison, Associate, Montgomery; Lamar Wiley, Montgomery, Secretary
- Public Welfare, State Department*—Miss Loula Dunn, Commissioner, Montgomery; Bureau of Field Service, Bess Adams, Montgomery; Bureau of Accounting and Business, John W. Crump, Montgomery; Bureau of Child Welfare, Mrs. Edward Gresham, Montgomery; Public Assistance, Elizabeth Bryan, Montgomery
- Public Works Board of Alabama*—Oliver E. Young, Vernon
- Purchasing Agent, State*—M. W. Hutchings, Birmingham

- Real Estate Commission*—Alex Foreman, Mobile
Revenue, Commissioner of—John C. Curry, Montgomery; John W. Lapsley, Legal Counsel, Montgomery
Safety and Inspection, Division—E. J. McCrossin, Birmingham, Chief
Safety, Department of Public—T. Weller Smith, Director, Montgomery; N. W. Kimbrough, Montgomery, Captain; T. F. Carlisle, Montgomery, Sergeant
Secretary, Private, to Governor—Roland Mushat, Tuscaloosa
Secretary, Recording, to Governor—Carolyn Morton, Montgomery
Securities Commission, State—T. S. Lawson, Attorney General; Robert Harris, Secretary, Montgomery
Service Commission, State—W. M. Weston, Tuscaloosa
State Highway Corporation—Chris J. Sherlock, Montgomery
Toxicologist, State—H. M. Nixon, Auburn
Unemployment Compensation Division, Department of Industrial Relations—Amos N. Kirby, Montgomery
Uniform State Laws Commission—Lee C. Bradley, Jr., 2100 Comer Bldg., Birmingham
Veterinarian, State—Dr. I. S. McAdory, Auburn
Supreme Court—John C. Anderson, Chief Justice; Lucien D. Gardner, succeeded John C. Anderson, as Chief Justice; Associate Justices: Virgil Bouldin, Joel B. Brown, A. B. Foster, Lucien D. Gardner, Thomas E. Knight, Wm. H. Thomas; J. Ed Livingston succeeded Lucien D. Gardner as Associate Justice; J. Render Thomas, Clerk; Noble H. Seay, Reporter of Decisions; Travis Williams, Librarian
Court of Appeals—Judge Chas. R. Bricken, Presiding Judge; Associate Judges: Robt. T. Simpson, Jr., James E. Rice; Charles Bricken, Jr., Clerk

OFFICERS AND MEMBERS OF THE LEGISLATURE OF ALABAMA REGULAR SESSION 1939

SENATE OF ALABAMA

OFFICERS

A. A. Carmichael, <i>Lieutenant-Governor</i>	Montgomery
Joe N. Poole, <i>President Pro Tem</i>	Butler Springs
J. E. Speight, <i>Secretary</i>	Montgomery
T. L. Austin, <i>Asst. Secretary</i>	Wetumpka
Mrs. Reese Julian Screws, <i>Enrolling-Engrossing Clerk</i>	Shorter
J. G. Watkins, <i>Doorkeeper</i>	Clayton
1st District—William W. Malone.....	Athens
2nd District—Norman W. Harris.....	Decatur
3rd District—Finis E. St. John, Jr.....	Cullman
4th District—Chas. E. Shaver.....	Huntsville
5th District—Herbert H. Conway.....	Albertville
6th District—John A. Lusk, Jr.....	Gadsden
7th District—Henry H. Booth.....	Anniston
8th District—W. L. Howard.....	Sylacauga
9th District—Daniel R. Boyd.....	Roanoke
10th District—T. H. Street.....	Alexander City
11th District—Hayse Tucker.....	Tuscaloosa
12th District—Oliver E. Young.....	Vernon
13th District—James A. Simpson.....	Birmingham
14th District—Verdo W. Elmore.....	Gordo
14th District—R. B. Dougherty, succeeded Verdo W. Elmore, resigned	Reform
15th District—Karl C. Harrison.....	Columbiana
16th District—R. M. (Renzo) Guy.....	Letohatchie
17th District—J. N. Poole.....	Butler Springs
18th District—Howard Cooper.....	Brent
19th District—P. F. DeVane.....	Silas
20th District—O. D. Carlton.....	Thomaston
21st District—W. C. Holmes.....	Foley
22nd District—J. Bruce Henderson.....	Miller's Ferry
23rd District—T. S. Faulk.....	Samson
23rd District—Clyde M. Segrest, succeeded T. S. Faulk, deceased	Slocomb
24th District—Preston C. Clayton.....	Clayton
25th District—J. M. Rowe.....	Elba
26th District—Watkins C. Johnston.....	Tuskegee
27th District—W. A. Dozier.....	Hurtsboro
28th District—Charles A. Stakely, Jr.....	Montgomery
29th District—E. M. Baker.....	Fort Payne
30th District—C. C. Thomas.....	Selma
31st District—Z. L. Weatherford, M. D.....	Red Bay
32nd District—E. F. Hildreth.....	Eutaw
33rd District—Daniel T. McCall.....	Mobile
34th District—A. L. Crumpton.....	Ashland
35th District—W. Perry Calhoun.....	Dothan

HOUSE OF REPRESENTATIVES 1939

REGULAR SESSION

OFFICERS

<i>Speaker</i> —Hugh D. Merrill	Anniston
<i>Speaker Pro Tem.</i> —Aubrey Dominick	Tuscaloosa
<i>Clerk</i> —R. T. Goodwyn, Jr.	Montgomery
<i>Doorkeeper</i> —H. A. Thompson	Birmingham
<i>Enrolling and Engrossing Clerk</i> —J. W. Kirtland	Montgomery
<i>Assistant Clerk</i> —John F. Campbell	Heflin
<i>Assistant Doorkeeper</i> —Brewer Stough	Lapine, Rt.
<i>Reading Clerk</i> —Cyrus B. Brown	Montgomery
Autauga—Harry M. Doster	Prattville
Baldwin—Frank V. Barchard	Foley
Barbour—Charles L. Weston	Louisville
Barbour—C. E. Whigham	Louisville
Bibb—J. Fred Wood	Centerville
Blount—C. S. Nation	Blountsville
Bullock—C. D. Norman	Union Springs
Bullock—R. E. L. Cope, Jr.	Union Springs
Butler—Walter W. Flowers	Greenville
Butler—Earl M. McGowin	Chapman
Calhoun—T. T. Bagley	Anniston
Calhoun—Hugh D. Merrill	Anniston
Chambers—C. A. Spence	LaFayette
Chambers—William H. Jenkins	Waverly
Cherokee—Lem J. Cobb	Centre
Chilton—Percy Pitts (Rep.)	Clanton
Choctaw—Heyward Taylor	Butler
Clarke—D. C. Mathews	Grove Hill
Clarke—Earl L. Tucker	Thomasville
Clay—H. J. Carwile	Pyrition
Cleburne—Grady W. Cook	Heflin
Coffee—C. C. Peacock	New Brockton
Colbert—John E. Delony	Tuscumbia
Conecuh—J. E. Kelly	Repton
Conecuh—Forrest Castleberry, succeeded J. E. Kelly, deceased	Castleberry
Coosa—T. H. Neighbors	Goodwater
Covington—L. E. Brown	Andalusia
Crenshaw—Walter L. Petrey	Petrey
Cullman—M. L. Robertson	Cullman
Dale—D. G. Barnes	Skipperville
Dallas—John L. Sherer	Plantersville
Dallas—George P. Quarles	Selma
Dallas—Jas. A. Hare, Jr.	Browns
DeKalb—W. M. Beck	Fort Payne

Elmore—Hunter Golson	Wetumpka
Elmore—Harley M. Dobbs	Tallassee
Escambia—Flournoy Lovelace	Brewton
Etowah—James B. Allen	Gadsden
Etowah—Roy D. McCord	Gadsden
Fayette—Max H. Branyon	Fayette
Franklin—Frank L. Haynes	Hodges
Geneva—E. C. Boswell	Geneva
Greene—W. L. Martin, Jr.	Eutaw
Hale—Walter P. Gewin	Greensboro
Hale—J. W. Tidmore	Moundville
Henry—D. A. Walden	Headland
Henry—R. F. Hall	Abbeville
Houston—W. G. Hardwick	Dothan
Jackson—J. M. Devers	Scottsboro
Jackson—Claude E. Matthews	Stevenson
Jefferson—Ivy J. Gwin	Birmingham
Jefferson—Tram Sessions	Birmingham
Jefferson—Hugh Kaul	Birmingham
Jefferson—Sidney W. Smyer	Birmingham
Jefferson—Mark Hodo	Birmingham
Jefferson—(Judge) Roger Snyder	Birmingham
Jefferson—W. S. Welch	Bessemer
Lamar—W. W. Waldrop	Millport
Lauderdale—C. W. Young	Florence
Lauderdale—Geo. Bliss Jones	Florence
Lauderdale—Orlan B. Hill, succeeded Geo. Bliss Jones, resigned	Florence
Lawrence—Ernest Graham	Courtland
Lee—S. L. Toomer	Auburn
Lee—Roberts H. Brown	Auburn
Limestone—John E. Christopher	Athens
Lowndes—Neil Robinson	Lowndesboro
Lowndes—M. R. Norman	Fort Deposit
Macon—Henry Neill Segrest	Tuskegee
Madison—C. J. Owens	Huntsville
Madison—William E. Davis	Huntsville
Marengo—Sibyl Pool	Linden
Marengo—W. B. Phillips	Nicholsville
Marion—R. L. Hill	Winfield
Marshall—W. D. Newman	Guntersville
Mobile—E. M. Megginson	Mobile
Mobile—Richard H. Inge, succeeded E. M. Megginson, resigned	Mobile
Mobile—George E. Stone, Jr.	Mobile
Mobile—Joseph N. Langan	Mobile

Monroe—W. W. Garrett	Uriah
Montgomery—S. B. Sightler	Montgomery
Montgomery—L. A. Sanderson	Montgomery
Montgomery—John J. Diffly, Sr.	Montgomery
Montgomery—Luther Waller, succeeds John J. Diffly, Sr., deceased	Montgomery
Montgomery—A. C. Davis	Montgomery
Morgan—Rutledge S. Thomas	Decatur
Morgan—E. G. Hamilton, succeeded Rutledge S. Thomas, resigned	Decatur
Morgan—B. P. Collier	Decatur
Perry—Judson C. Locke	Marion
Perry—John G. White	Uniontown
Pickens—S. H. Ball	Carrollton
Pike—S. Brooks Green	Banks
Pike—J. A. Stallings	Goshen
Randolph—W. Yancey Chewning	Roanoke
Russell—Chas. T. Clayton	Phenix City
Russell—H. O. (Hub) Booth	Phenix City
Shelby—L. H. Ellis	Columbiana
St. Clair—John R. Robinson	Ashville
Sumter—Wilbur E. Dearman	York
Sumter—Geo. O. Miller	Livingston
Talladega—L. N. Payne	Talladega
Talladega—L. J. Wright	Talladega
Tallapoosa—W. D. Graves	Alexander City
Tallapoosa—A. L. Langley	Camp Hill
Tuscaloosa—Aubrey Dominick	Tuscaloosa
Tuscaloosa—J. C. Austin	Tuscaloosa
Walker—A. J. McDanall, Jr.	Parrish
Walker—Hosmer Scott	Jasper
Washington—L. T. Henson	Hawthorn
Wilcox—P. E. Wallace	Ackerville
Wilcox—Leon Y. Sadler, Jr.	Camden
Winston—Roy Mayhall	Haleyville

INDEX

TO THE GENERAL ACTS OF THE LEGISLATURE OF ALABAMA, REGULAR SESSION 1939

	Page
ABSENTEE BALLOTS	
In primary elections, officers who are candidates disqualified from performing duties with reference to handling.....	364
Voting machines not required for casting.....	454
ACCESSORIES, MOTOR VEHICLE	
License for sale.....	966
License for sale automobile radios, parts, batteries, tires.....	966
ACCOUNTS	
Cost of examination and audit by Department of Finance or Division, charged against funds or revenues of office, department, examined.....	597
Records and accounts municipalities, reimbursement to state of salaries and expenses for examination.....	598
ACTIONS, LIMITATIONS	
Administration of estates, claims, commencement of suits.....	806
See Administration	
ACTIVE MILITARY SERVICE	
Appropriation.....	413, 1001
Governor authorized to use any part unexpended balance annual budget allotment made under.....	827
Special appropriation Armory Commission.....	827
ACTS AMENDED	
Absentee ballots, regulating voting, App. April 19, 1933, Sec. 4, relating to officers handling absentee ballots who are candidates themselves.....	364
Act making appropriation for expenses of executive, Legislative and judicial departments, interest on public debt and public schools, App. Sept. 6, 1935, Subdivision V of Section 1, maintenance, repair government buildings.....	4
Act providing for general revenue of state, App. July 10, 1935, Sec. 201, relating to assessment, equalization and collection of taxes, sale of property.....	67
Adjustment, State Board, creating, App. Sept. 14, 1935, Section 1, relating to members, salary.....	602
Agricultural Code 1927, Art. 34, amended by Acts 1931, page 844, and by Acts 1935.....	586
Agricultural Code 1927, Art. 36, Sections 477, 478, 479, 480, 482, 483, 484, 485, 486, 487, 488, relating to limestone.....	606
Amending Section 1104, Code of 1923, relating to control of venereal diseases, App. Sept. 13, 1935.....	370
Amending Section 1114, Code of 1923, relating to control of venereal diseases, App. Sept. 13, 1935.....	370
Armory Commission created, act approved August 23, 1935, amending title and sections 5 and 6.....	772

ACTS AMENDED—Continued

Authorizing creation and incorporation commission, for purchase construction and reconstruction highway bridges, etc. App. Feb. 7, 1935, as amended, authorizing state highway department to aid in construction, reconstruction, maintenance and operation, etc.	936
Cities 22,000 to 60,000 population, Class "D" cities, commission form of municipal government, abolition offices mayor and aldermen, App. Mar. 6, 1931, act and title amended.	46, 390
Cities 24,000 to 40,000 population, Class "D" cities, commission form of municipal government, abolition offices mayor and aldermen, App. Mar. 6, 1931, amended March 24, 1936.	46, 388
Cities within boundaries of housing authorities authorized to cooperate with housing authorities, App. February 7, 1935, amending title, and Sec. 3, repealing Sec. 4 and adding Section 7 to include towns, counties, public bodies, subdivisions and agencies; furnishing parks, playgrounds, streets, roads, water, sewer or drainage facilities.	983
Civil service system, provided counties 200,000 or more population, App. Aug. 28, 1935, amended Mar. 17, 1939, amending Sections 2, 7, 26 and 28.	542
Codifying, revising, and collating the general statutes of the state relating to Militia, designated as Military Code of Alabama, providing for military and naval forces of state and promote efficiency of these forces, App. April 22, 1936.	774, 1001-4
Conservation Act of 1939, Department, App. Mar. 14, 1939, Section 17, relating to consolidation funds.	814
Creating commission form of government, authorizing adoption cities and towns not within influence or operation of any other valid legislative enactment, App. April 8, 1911, relating to vacancies, election.	481
Creating commission form of government, authorizing adoption in cities and towns not within influence or operation any other valid legislative enactment, App. April 8, 1911, amended September 28, 1915, Section 4, relating to election officers.	408
Creating commission form of government, authorizing adoption in cities and towns not within influence or operation any other valid legislative enactment, App. April 8, 1911, Sec. 16, relating to salary, powers, duties commissioners, mayor.	440-41
Creating Department of Commerce, App. Feb. 9, 1939.	294
Creating State Department of Public Welfare, App. Aug. 27, 1935, Sections 4, 5, 7 and 8.	126-30
Creating State Planning Commission, App. Sept 9, 1935, pertaining to membership.	95
Credit unions, computation, levied by General Revenue Act 1935.	56
Electric service, prescribing conditions under which municipal corporations, counties, power districts, etc., may furnish electric service, App. August 18, 1939, caption, Sections 2 and 6.	554
Equalization, County Board, App. Mar. 15, 1939, Sections 3 and 10, relating to members civil service status, compensation, employees and assessed valuation taxable property.	827
Excise tax levied by Schedule 138.1, Section 348, Ch. 1, Art. XIII, General Revenue Act 1935, lubricating oil tax paid into treasury to credit of State Highway Patrol Fund.	293, 508

ACTS AMENDED—Continued

Excise tax proceeds levied by Schedule 138.1, Sec. 348, Ch. 1 of Art. XIII, on lubricating oil tax, applied to credit state highway patrol fund, Sec. 1, App. Mar. 1, 1939 amended to include State Planning Commission.....	508
Finance Act 1939, Department, App. March 7, 1939, Subsection 21, Section 5, default in payment of obligations.....	717
Firemen's Pension and Relief Fund, etc., created in cities 200,000 population, App. Sept. 9, 1935.....	910
Free scholarship in certain schools upon donation to State by United Daughters of Confederacy sum for securing, App. Feb. 24, 1915, Sections 1, 2 and 3 and by adding Section 4.....	978
Health, Section 1106 Code of 1923, Persons required to be treated.....	486
Highways, providing for general system of legislation pertaining to public roads, highways and bridges, establishing State Highway department and State Highway Commission; creating office of Alabama Highway Director, etc., App. August 23, 1927, sub-division (c) of Section 70, Article 2, relating to provision not applying to driver of vehicle disabled, and to vehicles carrying passengers for hire, operating over fixed route, vehicles stopping on highways.....	1032
Hospitalization, authorizing, providing and regulating non-profit corporations for establishing, maintaining and furnishing plan of hospitalization and hospital service, App. Sept. 14, 1935, amended April 21, 1936.....	710
Judicial circuits, code section amended, App. May 27, 1931, amended July 23, 1931.....	583
Merit System Act, App. Mar. 2, 1939, Subsection 4 of subdivision (a) of Section 10.....	876
Military Code, App. April 22, 1936, Sections 1, 2, 3, 11, 12, 16, 23, 30, 42, 43, 44, 51, 55, 65, 68, 69, 71, 75, 77, 90, 91, 93, 95, 97, 103, 118, 143 and 187.....	774
Military Code, App. April 22, 1936, Section 188, Active Military Service, Appropriation.....	1001-4
Motor trucks, act regulating and limiting use of public highways, App. Oct. 6, 1932, Section 4, 5, 7, 8, 11 and 12.....	687
Nurses, Board of examiners and registration, Section 1180-84 and 1186 Code 1923 and Section 1187, amended Sept. 2, 1927, amended July 30, 1931.....	700
Pension and Relief fund created in cities 100,000 or more population, for employees under civil service, and widows, App. January 26, 1937, reenacted and amended.....	795-802
Policemen's pension and relief fund, counties 100,000 population, App. February 16, 1923, amended September 29, 1923, amending Sections 3, 4 and 18, relating to fund.....	926
Primary elections, act providing and regulating, App. Feb. 25, 1931, Sections 5 and 29, relating to date first and second primaries held, and date for canvassing returns of first primary.....	823
Primary elections, act providing and regulating, App. Feb. 25, 1931, Section 13, relating to election officers.....	929
Proceeds excise tax levied by Schedule 138.1 of Sec. 348, Ch. 1. Art. XIII, on lubricating oil tax, applied to credit state highway patrol fund, Sec. 1, App. Mar. 17, 1939, to include State Planning Commission.....	508
Protection milk and proper control marketing, App. Mar. 20, 1939, Sections 9 and 11.....	873

ACTS AMENDED—Continued

Providing a commission form of municipal government in cities 40,000 to 67,000 population, App. Mar. 4, 1931, amended June 18, 1931, to provide for a pension system for employees except fire departments.....	832
Providing for general revenue, App. Feb. 8, 1939, exempting tax on fuel and supplies aboard ships.....	170
Providing for general revenue, App. Feb. 8, 1939, Section V, relating to exemptions.....	499
Providing for general revenue, App. Feb. 28, 1939, Section 22, relating to disposition taxes, fee.....	502
Providing for public corporation to construct public roads and bridges, App. Sept. 13, 1935, gasoline excise tax paid for use of corporation.....	2, 3
Providing for salaries in certain executive departments by authorizing Governor to fix salaries of officers and employees, App. Feb. 16, 1939, relating to appropriations.....	139
Providing for state planning of all public works and uses of land which are to be constructed or acquired with state funds, App. Sept. 9, 1935, amended Mar. 3, 1939 relating to membership, salary.....	472
Providing medical, surgical treatment, hospitalization crippled children, App. Sept. 9, 1935, Sec. 3 relating to funds.....	487
Providing that all cities of population 24,000 to 40,000 shall be known as Class "D" cities, providing commission form of government, abolishing office Mayor, etc., App. March 6, 1931, title and act amended to include counties 22,000 to 60,000 population, and providing that no general law heretofore enacted upon population classification, shall by reason of 1940 Federal census, operate to change board of commissioners.....	390
Regulating business of selling used motor vehicles, etc., App. March 2, 1937, Section 3, relating to violations and enforcement of act.....	989
Regulating transportation, delivery, storage or sale of gasoline and other motor fuels, App. Oct. 5, 1932, Sec. 5, bond required of distributors.....	974
Revenue Act of 1935, Section 16 of Schedule 159 of Section 348, relating to transporting and distributing tobacco products.....	1058
Revenue, providing for, App. February 8, 1939, sales, amending Section 35, relating to expenses for administration.....	930
Salt water shrimp, protection, App. Sept. 2, 1919, amended July 6, 1931, relating to license, etc., Sections 4, 6, 8, 18 and 19.....	889
Schedule 16, Article XIII, Chapter 1, General Revenue Act of 1935, sale of motor vehicle accessories, automobile radios, parts, batteries, tires.....	966
Schedule 20, Article XIII, Chapter 1, General Revenue Act of 1935, license on battery shops for repairing, recharging and selling batteries.....	967
Schedule 67, Article XIII, Chapter 1, Revenue Act of 1935, privilege license on gasoline, filling stations and pumps.....	968
Schedule 133 Section 348, Article XIII, providing for general revenue, App. July 10, 1935 relating to street fairs, carnivals.....	515
Schedule 154 Article XIII Ch. 1 Sec. 348, App. July 10, 1935, App. February 2, 1937, relating to vending machines.....	519
Schedule 156.11 Ch. 4 Art. XIII, providing for general revenue of State, App. July 10, 1935, relating to excise tax on gasoline.....	792

ACTS AMENDED—Continued

Schedule 158.10 Section 348, Article XIII, Ch. 6, Act providing for general revenue, App. July 10, 1935, motor tractors.....	329, 528
Schedule 158.11 Ch. 6 Art. 13, Act providing for General Revenue, App. July 10, 1935, trailers, semi-trailers.....	533
Schedule 158.14 of Section 348, Subsection (b) providing for General Revenue of State of Alabama, app. July 10, 1935, pertaining to license tags on motor vehicles.....	978
Schedule 158.15 Art. 13 Ch. 6 Revenue Act 1935, motor vehicle registration.....	527
Schedule 158.17, Section 348, Gen. Revenue Act, 1935, due date motor vehicle licenses.....	364
Schedule 158.19 Ch. 6, Article XIII, General Revenue Act of 1939, relating to motor vehicle and trailer license taxes.....	518
School Code, 1927, amended July 18, 1931, Section 522 corporate powers of institute.....	516
School Code 1927, Sections 423, 424, authority to cooperate with Federal Government, appropriation for education programs and classes.....	721
Section 1 authorizing trustees, executors, administrators, etc., to invest in mortgages which Federal Housing Administrator has insured, to enable State to invest in notes, bonds secured by mortgage or trust deed.....	227
Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 11, 12, and 14 of act for protection of human being against rabies, App. Mar. 2, 1937.....	329
Section 2 of Act approved July 10, 1931, to amend Section 17 Article II, Section 35 of Article III, and Sections 52 and 55, Article 5, of Act approved September 10, 1937, to provide a code of laws governing issuance of bonds of counties and municipalities and repealing sections of the Code of 1923.....	289
Sections 2, 3, 4, 6, 7, 8, 14, 16, 19, 20, 21, 23, 24, 25, 27, 29, 30 and 31 of Act approved August 28, 1935, creating in counties 200,000 or more population a county wide civil service system.....	309, 542
Section 3 Article 1 General Revenue Act 1935, App. July 10, 1935, amended March 26, 1936, relating to plants, factories.....	529
Section 4 of act declaring necessity for creating public bodies corporate to be known as housing authorities, App. Feb. 8, 1935, amended Sept. 13, 1935, relating to notice, hearing and creation of authority.....	220
Sections 5, 6, 8 and 9 of Act App. July 17, 1931, regulating the practice of architects, and creating a State Board for Registration of Architects.....	290
Sections 8 and 9 to provide for a more economical, convenient and uniform system of assessing and collecting taxes on real estate, certain counties, App. Apr. 21, 1936.....	264
Sections 15 and 16 of act declaring necessity for creating public bodies corporate to be known as housing authorities, App. Feb. 8, 1935, amended Sept. 13, 1935, relating to types of bonds, form and sale.....	222-23
Section 22 act providing for civil service regulations of police departments and fire departments in cities operating under commission form of government, population 20,000 to 50,000, providing for civil service board, App. August 4, 1931, providing for period of time in which to reorganize police and fire departments.....	44

ACTS AMENDED—Continued

Section 22, Tax Assessor's commissions, Gen. Rev. Act 1935.....	467
Section 161, Tax Collector's commissions, Gen. Revenue Act, 1935.....	466
Section 201, assessment, equalization and collection taxes, sale of property, Gen. Revenue Act of 1935.....	67
Section 345.18 sub-division (4) Act providing for general revenue of State, relating to income tax of estates.....	880
Section 345.28 General Revenue Act 1935, deductions allowed.....	521
Section 346.1 subsections (2), (4) (b), and 5, Ch. 1, Art. 12, General Revenue Act 1935, interest, bad debts, financial institutions.....	496
Section 346.5 Ch. I, Art XII General Revenue Act App. July 10, 1935, payment and distribution of tax.....	517
Section 348, Schedule 12, Revenue Act 1935, amended by Act 163, 1936-37 Acts, relating to privilege or license tax on automobiles, motor cars, trucks.....	497
Section 348, Schedule 158.10, Gen. Revenue Act of 1935, license on motor tractors, exception.....	329
Section 348, Schedule 158.14, subsection (b) providing for general revenue of State of Alabama, App. July 10, 1935, pertaining to license tags on motor vehicles.....	978
Section 348, Schedule 158.17 due date motor vehicle licenses.....	364
Section 348, Schedule 159, Section 16, Article XIII, General Revenue Act, 1935, relating to transporting and distributing tobacco products.....	1058
Section 350(b), Article 14, Ch. 1, Act app. July 10, 1935, not to apply to license or privilege tax, sales.....	18
Section 397 Agricultural Code 1927, App. June 15, 1935 inspection of warehouses.....	586
Section 855, Code of 1923, App. Feb. 4, 1927, may appoint assistants and stenographers to Attorney General.....	57
Section 6717 Code of 1923, compensation to such bailiffs, App. February 20, 1931, amended March 1, 1939.....	113, 424
Sections of Budget and Financial Control Act, App. September 27, 1932, Sections 11-17 and Sections 19-23 and Section 25.....	190-99
State Bar, providing organization, regulation and government, including admissions and disbarment lawyers, App. August 9, 1923, amended June 6, 1931.....	871
Subsection (f) Section 5, to further provide for general revenue, App. February 8, 1939, relating to sales of live stock.....	18, 228, 529
System assessing and collecting taxes on real estate, App. April 21, 1936, to provide for filing protests to valuation fixed by Board of Equalization, Section 4, 5, and 6.....	830
Tax Assessors commissions, Section 22, general revenue Act 1935, App. July 10, 1935.....	467
Tax Collectors commissions, Section 161 General Revenue Act 1935, App. July 10, 1935.....	466
To further conserve, protect and develop oysters on bottoms within boundaries of State, App. Mar. 1, 1937, amending sections 17, 28, 31, 39 and 41, relating to licenses.....	891
To further provide for general revenue of State, App. Feb. 8, 1939, by adding section 5¾, exemption of sales of fluid milk.....	228
Toxicologist, act creating office, App. July 19, 1935, Sections 3, 4 and 5, duties, compensation.....	584

ACTS AMENDED—Continued

Unemployment compensation system created, App. September 14, 1935, Sections 2, 3, 4, 5, 6, 7, 8, 9, 10, 12, 13, 14, 15, 16, 17, 18, 19 and 20.....	721
Unencumbered balance highway patrol fund transferred to general fund, provided in act App. Mar. 18, 1939.....	503
Voting machines for registering, recording and computing the votes at elections, App. August 25, 1939, Section 1, relating to definitions.....	989
Water Works Board, incorporation, act providing for and authorizing for cities and towns, App. Mar. 2, 1937, Sections 5, 7, and 8.....	713
Workmen's compensation act passed in 1936, amending Section 7547 of Code of 1923, presumption as to acceptance of provisions of Article 2.....	1044
Workmen's Compensation act passed in 1936, amending Section 7563 of Code of 1923, limitation on compensation.....	1045
Workmen's compensation act passed in 1936, amending Section 7567 of Code of 1923, medical, surgical and hospital service.....	1045
Workmen's compensation act passed in 1936, amending Section 7596 of Code of 1923, words and phrases defined.....	1047

ACTS REPEALED

Act amending act authorizing boards of revenue counties certain population to expend county funds for county purposes, App. Feb. 20, 1931.....	117
Act authorizing boards of revenue certain counties to expend county funds for county purposes, App. Feb. 12, 1931, amended July 22, 1931.....	117
Act authorizing State Land Commissioner to contract for investigation of sales of real estate for taxes, and secure sales, App. Sept. 13, 1935.....	6
Act providing that board of finance and control of counties 41,000 or more population, authorized employ stenographers, clerks and assistants, App. February 24, 1937.....	33
Act regulating use of state owned motor propelled vehicles and motor propelled vehicles for which fuel or tag furnished by State or institution, App. Mar. 23, 1933.....	37
Agricultural Code 1927, Section 474, 475, 476, Art. 36 relating to limestone.....	606
Amending act to fix salary judge of probate counties 75,000 to 100,000 population, assistance, election clerk, App. April 2, 1936.....	141
Amending Section 3 of Act App. Mar. 9, 1931, prescribing qualifications coroners, counties certain population, App. June 6, 1935.....	112
Assistant solicitor judicial circuits one county with more than two and less than nine circuit judges, App. February 10, 1927.....	422
Authorizing and ordering an election for levying excise tax on gasoline, for maintenance and operation public schools certain counties, App. July 30, 1931.....	112
Authorizing creation Rural Electrification Authority of Alabama, App. February 7, 1935, amended Sept. 2, 1935.....	438
Authorizing indeterminate sentence of imprisonment for term not less than minimum nor greater than maximum fixed by statute.....	438
Board of Education in counties population not less than 75,000 nor more than 100,000 population, authorizing and requiring a pension or retiring allowance for teachers, App. April 15, 1936.....	477
Budget system established city and county school system, App. Sept. 2, 1935.....	614

ACTS REPEALED—Continued

Cities within boundaries of housing authorities authorized to co-operate with housing authorities, App. February 7, 1935, Section 4	985
Codification, revision, digesting and promulgation public statutes, App. April 21, 1936	996
Commission form of municipal government cities 25,000 to 50,000 population, App. Sept. 18, 1923, amended February 9, 1931, amending Sections 1, 7, 8, 11, 12, 14, 16, 18 and 25	859
Compensation Board Nurses Examiners and registration Section 1185 Code 1923, amended Sept. 2, 1927	700
Consolidation of administration and control public school systems counties 75,000 to 100,000 population, establishing Board of Education, App. Sept. 6, 1927, amended Mar. 5, 1931, amended July 8, 1931, amended Feb. 9, 1935, amended July 11, 1935, amended Mar. 3, 1936, amended Jan. 8, 1937	425
Creating a Milk Control Board, App. July 9, 1935	289
Creating and establishing Board of Jury Supervisors counties 75,000 to 100,000 population, passed over Governor's veto June 18, 1931	166
Creating Commission form of municipal government in cities 25,000 to 50,000, abolishing police commissioners, etc. App. September 18, 1923, subsequently amended	858
Creating, establishing inferior courts certain counties, in lieu of justices of the peace, App. Feb. 5, 1931	175
Creating in all counties certain population office of special officer, App. March 2, 1931	117
Establishing Jury Boards counties 75,000 to 100,000 population, App. March 9, 1931	165
Fixing compensation salary and allowance paid sheriffs deputies and assistants, certain counties, App. Feb. 20, 1931	116
Fixing compensation tax collectors and assessors counties 75,000 to 100,000, App. March 5, 1931	115
Fixing salaries members and clerical help courts county commissioners or boards of revenue counties 75,000 to 100,000 population, App. Feb. 12, 1931	113
General Revenue Act of 1935, Sections 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78 and 79, App. July 10, 1935, with reference to boards of review	189
Guardian ad litem fees, commissions, allowances to be charged as court costs, act regulating, App. June 12, 1935	992
Humane system established for caring for needy aged, etc., App. Sept. 14, 1935, amended Mar. 4, 1937	697
Making persons counties 75,000 to 100,000 population liable to work on public roads, App. July 17, 1931	174
Matron for county jail in counties population 100,000 to 300,000 population, App. Feb. 13, 1931	422
Nurses, Compensation Board, Section 1185 of Code of 1923, amended by 1927 Acts	700
Motor Carrier Act 1927	1087, 1090
Motor Carrier Act of 1931	1087, 1090
Motor Carrier Act of 1932	1090
Prescribing qualifications coroners, counties certain population, App. March 9, 1931	111
Providing and creating commission form of municipal government in cities 25,000 to 50,000 population, regulating selection and election commissioners, etc., App. Sept. 18, 1923, amended Aug. 27, 1927, amending Section 17	858

ACTS REPEALED—Continued

Providing and creating commission form of municipal government in cities 25,000 to 50,000 population, regulating selection and election commissioners, etc. App. Sept. 18, 1923, amending Section 22, which became law under Sec. 125 of Constitution	858
Providing for appointment or election of bailiff for grand jury of circuit court counties more than 200,000 population, App. April 19, 1933	31
Providing for public corporation for construction of public roads and bridges, App. Sept. 13, 1935, p. 1006, 1935 Acts, and amendments	39-43
Providing for public safety, regulation, operation of motor vehicles on public highways, providing for registration and license drivers or operators motor vehicles, App. Sept. 2, 1935	309
Regulating excusing jurors in circuit courts, certain population, App. Oct. 25, 1932	62
Relating to dependent, neglected or delinquent children, certain counties, establishing juvenile and domestic relations court, App. Feb. 26, 1931, amended Jan. 31, 1935, amended Feb. 23, 1937	62-4
Revision, codification, digesting and promulgation of public statutes, act to provide, App. April 21, 1936	15, 460, 995
Road patrolmen, employment, discharge and compensation provided, certain counties, App. Sept. 24, 1923	465
School Code 1927, Sections 630, 631, 632, 633, 634, 635, 636, 640, 641, 642, 643, 644, 646, 648, 649, 651 and 653, relating to school lands, lease and sale	953
Sections 1, 2 and 3 to regulate and provide for school financing, school warrants and school tax elections and to safeguard the credit of county and city boards of education, etc. except the validating provisions, App. Feb. 4, 1937	346
Sections 1-9A, Budget and Finance Control Act, App. Sept. 27, 1932	151
Section 3 of Act to protect rights of public in matters involving public utilities, App. July 10, 1935, with reference to Peoples Public Service Attorney	168
Section 26 of act declaring necessity of creating public bodies corporate, App. Feb. 8, 1935, amended Sept. 13, 1935, relating to conveyances and contract of city or government	224
Sections 600-9 Article 42, Agricultural Code 1927	771
Subsections c, d, e, f, g, and h of Section 7 and subsection a of Section 8 of Unemployment Compensation Act, App. Sept. 14, 1935, as of date specified by Governor in declaration	254
To confer additional authority upon boards of education for the issue of refunding warrants, App. Feb. 18, 1937	346
To further provide for general revenue, and to repeal act to amend act providing for general revenue, App. July 10, 1935, by adding Schedules 155.4 A and 155.4 B to Section 348 of said Act, approved December 17, 1936, App. Feb. 23, 1937	30
To provide for the refunding of outstanding school warrants by county boards of education and to validate certain outstanding school warrants heretofore issued by such boards, App. Jan. 12, 1937	346
To regulate school warrants, school finances, and school tax elections, to validate certain school warrants and indebtedness, and to repeal laws in conflict, App. Apr. 16, 1936, to remain in force sixty days after effective day act App. Mar. 15, 1939	346

ADJUSTMENT, STATE BOARD

Appropriation	418
Director of Finance member.....	151
Members, salary, act amended.....	602

ADJUTANT GENERAL

Appropriation	413
Custodian state property.....	778
Designation, head of Military Department.....	783
Duties with reference to boxing, wrestling.....	709
See Military Code amended	
Transfer of property.....	778

ADMINISTRATION

Appeals	806
Governing body may dissolve consolidation and administration of county and city schools located within corporate limits of certain cities	557
Of estates, claims, commencement of suits.....	806
Of estates of persons of unsound mind removed from probate court to circuit court.....	168
Order of removal.....	168
Personal representative may give notice in writing that claim is disputed	806
Regulated	53
Taxation of costs of proceeding.....	806

ADMINISTRATION, LETTERS OF

Application advertised.....	53
Applied for, to be filed and testimony taken.....	53
Costs paid out of estate of supposed decedent.....	55
Probate court may revoke.....	54
Provided for	53-5
Statutes of limitations.....	53
Testimony taken and letters filed.....	53
To whom granted.....	53

ADMINISTRATION OF ESTATES

Probate courts, general equity jurisdiction conferred, concurrent with that of circuit courts in equity in administration of estates	1001
Probate courts shall have same powers and authority of judges and registers of circuit courts have in.....	1001

ADMINISTRATION, STATE BOARD

Abolished	120
Duties transferred to Director of Finance.....	151
Duties transferred to State Department of Corrections and Institutions	120
President may become part of public corporation.....	39-44
See Alabama State Highway Corporation	
See Director of Finance	

ADMINISTRATORS OF ESTATES

Absence of seven years or more of supposed decedent.....	53
Advisement of decrees of presumption of death in absence of seven or more years.....	53
All laws with respect to procedure not in conflict applicable.....	55
Application for letters advertised.....	53
Distribution of assets.....	226

ADMINISTRATORS OF ESTATES—Continued

Distribution of proceeds of estates.....	54
Evidence of presumption of death.....	53
Filing of settlement, reduction of bond.....	883
Invest in bonds and other obligations issued by housing authorities	902
Judgments recovered may be opened on application by sup- posed decedent.....	55
Lawful to invest funds in notes or bonds secured by mortgage or trust deed, insured by Federal Housing Administrator.....	227
Letters of administration applied for to be filed and testi- mony taken.....	53
Letters of administration provided for.....	53
Notice requiring supposed decedent, if alive, to produce evidence of continuance in life.....	53
Probate court may appoint for estates of persons presumed to be dead.....	53
Probate court may revoke letters of administration.....	54
Sales of mortgages.....	226
Statute of limitations.....	53
Supposed decedent, if alive, powers of, cease.....	54
To whom letters of administration granted.....	53-4
Transfer of assets to person found alive.....	54
When powers cease.....	54

AD VALOREM TAXATION

Homestead, exemption.....	703
Tax rate limited of municipal corporations, may levy and collect additional taxes.....	886

ADVERTISING

Commodities at less than stipulated price.....	37
Division State Planning Commission.....	475
See Fair Trade Act	

ADVISORY COUNCILS

Unemployment Compensation, duties.....	745
--	-----

AERONAUTICS, ASSISTANT DIRECTOR

Appropriation	413
---------------------	-----

AEROPLANES

Railroad companies may acquire, own and operate, for transporta- tion of persons or property.....	1019
--	------

AGED

See Old Age Assistance	
------------------------	--

AGENCY

Operating electric light plant or distribution system shall notify owner of plant or system of intention to engage in business.....	405, 554
Sale by owner of electric plant.....	406-7, 554

AGENT, STATUTORY

Of foreign corporations.....	976
Secretary of State shall act for foreign corporation as.....	976
Statute of limitations, foreign corporations.....	976

AGREEMENTS,

See Reciprocal Agreements	
---------------------------	--

AGRICULTURAL CODE OF 1927 AMENDED

Article 26, Notwithstanding provision of Section 292, Commissioner may enter into reciprocal agreements with responsible officers of other states whereby inspection certificate or permit may be granted nurserymen and dealers without payment of fee, provision	1007
Article 34, as amended by Acts 1931, p. 844 and by Acts 1935, p. 12, 21 and 192	586
Article 36, certain sections, relating to limestone	606
Section 388 Public Warehouses	586
Section 389 Standards for Warehouses	586
Section 390 License to conduct public warehouse	587
Section 391 Application for license	587
Section 392 Notice of disposition of application	588
Section 393 Bond required of warehousemen	588
Section 394 Extra condition of bond	589
Section 395 Issuance of Permit	589
Section 396 Bond recorded	589
Section 397 Inspection of warehouses, amended by Acts 1931, p. 844 and by Act App. June 15, 1935	589
Section 398 Investigation of complaint against warehouse	590
Section 399 Hearing before Commissioner	590
Section 400 Evidence, power to secure	591
Section 401 When commissioner may take charge; receivership under direction of court	591
Section 403 Warehouse receipt	594
Section 404 Stored in the open	594
Section 405 Property stored in open insured	594
Section 406 Insurance of cotton	594
Section 407 False statement in application	595
Section 477 Guaranteed Analysis	606
Section 478 Definitions	606
Section 479 Preparation	606
Section 480 Registration	606
Section 482 Materials not registered cannot be sold	607
Section 483 Commissioner May Prohibit Registration and Sale	607
Section 484 Branding of containers for these materials	607
Section 485 Samples; Analysis	608
Section 486 Inspection of Quarries, Plants, etc.	608
Section 487 Misdemeanor	608
Section 488 Rules and regulations	608

AGRICULTURAL CODE OF 1927 REPEALED

Article 42, Section 600-09	771
Section 474 Article 36 Marl and ground limestone	606
Section 475 Article 36 Materials and machinery	606
Section 476 Price at which sold	606
Section 600 Control industrial sections	771
Section 601 Alabama Industrial Development Board	771
Section 602 Terms of members of Board	771
Section 603 Governor Chairman, Commissioner secretary	771
Section 604 Meetings	771
Section 605 Duty Alabama Industrial Development Board	771
Section 606 State Board of Agriculture	771
Section 607 Counties and municipalities may appropriate funds	771
Section 608 Offices	771
Section 609 Members shall not receive compensation	771

AGRICULTURAL EXPERIMENT STATION, STATE	
Director Member State Soil Conservation Committee.....	203
See Soil Conservation Districts Law	
AGRICULTURAL EXTENSION SERVICE, ALABAMA	
Amount collections sales tax to counties used for extension service	29
Funds from sales tax.....	932
Member advisory board of Conservation of Department of Conservation	259
AGRICULTURAL FUND	
Sale of property of public warehouse.....	586
AGRICULTURAL SCHOOL DEMONSTRATION FARMS	
Property, live stock, equipment and farm produce sold.....	881
AGRICULTURE	
Appropriation for extension work at Alabama Polytechnic Institute	399
AGRICULTURE & INDUSTRIES, COMMISSIONER	
Application for operation public warehouse.....	589
Appropriation	413
Commissioner member State Crop Improvement Committee.....	1021
Dealers in limestone and other products register with.....	607
Functions, duties and power industrial section of department exercised by.....	770
Limestone, and other materials, regulations.....	606
Member advisory board of Conservation of the Department of Conservation	259
Prohibit registration and sale limestone, etc.....	607
Reciprocal agreements between Commissioner and responsible officers of other states whereby inspection certificates or permits may be granted nurserymen and dealers without payment of fee, provision.....	1007
Salary	771
See Limestone	
See State Crop Improvement Committee	
See Warehouses, Public	
Shall make regulations relating to control of tuberculosis, paratuberculosis and Bang's disease.....	200
State Toxicologist to cooperate with.....	585
Supervision Public Warehouses.....	586
AGRICULTURE & INDUSTRIES, STATE BOARD	
Authority to provide standards for warehouses.....	589
Created	199
Duties State Board of Agriculture transferred to.....	199
Membership, compensation.....	199
AGRICULTURE, COMMITTEE ON	
Joint resolution creating.....	358
AGRICULTURE, STATE BOARD	
Abolished	199
Bond, application to practice entomology, pathology, horticulture, floriculture, tree surgery	866
Duties transferred to State Board of Agriculture and Industries	200
Rules and regulations for practice entomology, pathology, horticulture, floriculture, tree surgery.....	866

AIR SERVICE BUILDING COMMISSION

Appropriation	418
---------------------	-----

AIRSHIPS

Factories, taxes remitted	529
---------------------------------	-----

ALABAMA BRIDGE AUTHORITY

Exchange	552, 577
Issuance bonds authorized to pay or retire outstanding bonds of	550, 576
Notice of public sale	551, 577
Proceeds	551, 577
Record of bonds sold furnished by State Treasurer to Director of Finance	552, 577
Redemption premium	552, 577
Sale of bonds	551, 577
Trust fund	551, 577

ALABAMA BRIDGE COMMISSION (an agency of the State of Alabama)

Change of name from Highway Bridge Corporation, Inc. ratified	948
Exchange	537
Issuance of bonds authorized to pay or retire outstanding bonds of	537, 574
Notice of public sale	536
Proceeds	536
Record of bonds sold furnished by State Treasurer to Director of Finance	537
Redemption premium	537
Sale of bonds	536
Trust fund	

ALABAMA COLLEGE

Appropriation	399, 401, 417
---------------------	---------------

ALABAMA EXPERIMENT STATION

Director, member State Crop Improvement Committee	1021
Members examining board to examine persons engaged in profes- sional work of entomology, pathology, horticulture, floriculture, tree surgery	866

ALABAMA HIGHWAY PATROL

Salary	33, 139
See Highway Patrol	

ALABAMA HISTORICAL QUARTERLY

Edited by Director Department of Archives & History	953
---	-----

ALABAMA INSTITUTE FOR DEAF AND BLIND

Adult blind department established	680
Appropriation employees to aid in instruction blind persons	681
Blind relief	680
Duties superintendent	680
Duty superintendent maintain register blind persons	680
Home instruction to blind persons	680
Marketable products, blind persons	680

ALABAMA MOTOR CARRIER ACT OF 1939

Abandonment or discontinuance of service by common carriers	1072
Accounts, records and report forms prescribed by Alabama Public Service Commission	1084
Accounts, records and reports required of motor carriers	1067, 1083-84

ALABAMA MOTOR CARRIER ACT OF 1939—Continued

Additional compensation	1087
Adjustment of divisions of joint rates.....	1077
Administration	1069, 1087
Amendments of certificates of public convenience and necessity.....	1088
Appeals	1087
Applications accompanied by fee	1088
Applications for amendment, transfer, approval or lease of certificate of public convenience and necessity.....	1088
Applications for certificate of convenience and necessity.....	1070, 1072
Applications for rehearing by motor carriers.....	1067
Applications served upon highway department.....	1072
Applications served upon others	1072
Appropriation	1088
Approval date	1090
Beneficial owner, liability of for charges.....	1086
Bills of lading, contents.....	1084
Bonds of motor carriers.....	1076
Brokerage licenses	1074
Carrier, duties	1077
Carriers cannot hold certificates as common carriers and permit as contract carrier over same route, exception.....	1074
Carriers, when permitted to make only two trips.....	1071
Certificates for transportation of passengers, inclusion.....	1071
Certificates of public convenience and necessity from Interstate Commerce Commission	1071
Certificates of public convenience and necessity heretofore issued, applicable	1070
Certificate of public convenience and necessity to engage in intrastate commerce	1069, 1088
Changes in rate, when effective.....	1081
Circuit court may enjoin violations.....	1084
Collection of rates and charges.....	1086
Common carriers may not abandon service without order of Commission	1071
Complaints	1077
Contract carriers, limitations of transports.....	1072
Contracts, agreements or arrangements between carriers to be filed.....	1083
Copies of contracts containing minimum charges.....	1081
Damage to property of shipper.....	1084
Definitions	1064, 1083, 1084
Display of plates or tags.....	1088
Disposition of fees.....	1089
Divulging of information by agent or employee of Public Service Commission, penalty	1085
Dual operation	1074
Duties and powers of Alabama Public Service Commission.....	1067, 1077, 1081-5, 1087, 1089
Effective date of certificates, permits and licenses and act.....	1075, 1090
Evidence of public liability and property damage insurance.....	1071
Examiners, duties	1087
Failure motor carriers to comply with provisions.....	1067
Failure to make reports.....	1085
Fees paid by motor carriers.....	1088
Free tickets, passes, or transportation.....	1079
Hearings on reduced rates	1083
Hearings, rehearings	1068

ALABAMA MOTOR CARRIER ACT OF 1939—Continued

Interchange of passes	1079
Issuance of certificates of public convenience and necessity.....	1070, 1072
Issuance of mileage, excursion or commutation passenger tickets...	1081
Joint rates	1077
Lease or transfer of certificates.....	1076
Lands, buildings accessible to Alabama Public Service Commission	1083
Loss to property of shipper.....	1084
Losses, compensation	1076
Members Alabama Public Service Commission or employees shall have no interest in motor carriers.....	1068
Mileage tax payable	1071
Minimum charges prescribed by Alabama Public Service Com- mission	1082
Minimum charges shall give no advantage to carriers in competition	1082
Motor Carrier Fund	1089
Motor carriers subject to control of	1067
Municipalities, privilege license tax	1089
No exemption to motor carriers operating under certificate or per- mit granted under authority Public Service Commission	1066
Orders of commission, effective date	1084
Passes or free transportation.....	1079
Permits for contract carriers by motor vehicles	1072
Permits for hauling for hire.....	1066, 1072
Plates issued for motor vehicles, registration fee.....	1088
Proof of service.....	1072
Publication of rates, fares and charges.....	1081
Rates, fares and charges of common carriers by motor vehicle.....	1077
Receipts or bills of lading furnished by common carriers to shippers	1084
Reconsignment	1086
Reductions in charges	1082-83
Reduced rates, file with Public Service Commission	1081
Refunds or remissions	1079
Registration Fee	1088
Relief transportation	1079
Regulation of contract carriers.....	1067
Repealing Motor Carrier Act of 1927 and 1931.....	1087
Revocations of certificates, permits and licenses.....	1075
Rules and regulations	1089
Sale of transportation prohibited without brokerage license.....	1074
Schedules of contract carriers by motor vehicles.....	1081
Schedules of joint rates, hearing.....	1077, 1079
Security for protection of public.....	1076
Service provided by common carriers by motor.....	1077
Service to United States, state, county or municipal government, charitable purposes, etc.	1079
Shall not apply to motor vehicles operating for hire within limits of a city or incorporated town, or between adjoining towns or cities	1066
Shall not apply to school busses, owned by county boards of educa- tion	1066
Shall not apply to motor vehicles used in intrastate transportation of property	1066
Shall not apply to motor vehicles used in hauling, not exceeding number miles	1066
Special rates, file with Public Service Commission	1081
Specific compensation for transportation, reduction.....	1079, 1081

ALABAMA MOTOR CARRIER ACT OF 1939—Continued

Suspension, changes, revocation and transfer of certificates, permits and license	1075, 1077
Tags issued for motor vehicles.....	1088
Tariffs of common carriers by motor vehicle.....	1079
Tariffs published, filed and posted.....	1079
To apply to interstate commerce.....	1067
Transfer or lease of certificates and permits.....	1076
Transportation passengers and property.....	1072, 1077
Transfer of certificate of public convenience and necessity or permit	1088
Unjust divisions of joint rates.....	1077
Violations	1081
Violations, penalty	1084

ALABAMA PENSION COMMISSION

Director Department Archives & History, member.....	583
---	-----

ALABAMA POLYTECHNIC INSTITUTE

Appropriation.....	401-2, 417
Bonds issued to finance public works projects.....	396
Demonstration farms sold.....	881
Director of Extension Service members State Board of Agriculture and Industries.....	199
Section 522 School Code 1927 relating to corporate powers, amended	516

ALABAMA PUBLIC SCHOOL CORPORATION

Created	810
---------------	-----

ALABAMA PUBLIC SERVICE COMMISSION

Appropriation	414
Duties and powers under Alabama Motor Carrier Act of 1939.....	1067
Hearing of proposal of sale of electric plant.....	405-6, 554
Members shall have no interest in motor carriers.....	1068
Motor carriers delinquent in paying mileage tax, certificates of public convenience and necessity revoked.....	1057
Motor vehicles stopping on highways, disabled or picking up passengers	1033
Railroad companies obtaining certificate of convenience and necessity, operating motor vehicles for transportation persons or property	1019
See Alabama Motor Carrier Act of 1939	
Terms and conditions of sale of electric plant approved by.....	405, 554
To administer provisions of Alabama Motor Carrier Act of 1939	1069, 1087
Unlawful riding trains, busses or trucks.....	349
Water works boards exempt from jurisdiction and regulation.....	716

ALABAMA STATE BRIDGE CORPORATION

Exchange	552
Issuance bonds authorized to pay or retire outstanding bonds of.....	550, 576
Notice of public sale.....	551
Proceeds	551
Record of bonds sold furnished by State Treasurer to Director of Finance	552
Redemption premium.....	552
Sale of bonds.....	551
Temporary loans.....	577
Trust fund.....	551

ALABAMA STATE HIGHWAY CORPORATION

Act providing for public corporation for construction of public roads and bridges, App. Sept. 13, 1935, repealed, together with amendments.....	43
Additional amount excise tax on gasoline to be paid into treasury by Department of Revenue.....	41
Certificate of incorporation.....	40
Construction roads and bridges.....	41
Contracts.....	40-41
Created.....	39
Declaration to become corporation, presented Secretary of State.....	40
Dissolution.....	42
Excise tax on gasoline levied by Revenue Act 1935 used for.....	41
Governor's approval on sale of transfer of securities or taxes.....	43
May borrow money.....	40
Members.....	39
No fees for incorporation or dissolution paid Secretary of State.....	42
Officers, powers.....	39-40
Proceeds expended in county.....	40
Sale of notes, bonds, debentures.....	40
Sale of warrants.....	40
Sale of securities.....	40
Secretary of State countersigns securities issued.....	43
Securities proceeds carried in public road and bridge account.....	41, 43
See Public Corporations	
State Treasurer to record warrants and securities.....	43
State Treasury custody of funds.....	41
Tax appropriation may be repealed.....	43
Total issuance of evidence of indebtedness.....	43
Warrants or securities no debt of state.....	43

ALCOHOLIC BEVERAGE CONTROL BOARD

Net proceeds liquor stores, how distributed.....	526
Salary.....	33, 139

ALIMONY

Allowance for support of wife pending suit, code section amended.....	52
---	----

ALLEYS

In limits of municipality, assent for vacating must be obtained.....	110
May be vacated by owners of land abutting.....	110

ALMHOUSES

Courts of county commissioners authorized to furnish public buildings with office supplies, equipment.....	1028
--	------

AMERICAN LEGION AUXILIARY

Joint resolution designating U. S. Highway 11 as the Gold Star Highway.....	165
---	-----

AMUSEMENTS

Regulation on Sunday in Class "C" cities.....	835, 845
---	----------

ANIMALS

Duty State Toxicologist to cooperate in investigation deaths.....	584
---	-----

APPEALS

In workmen's compensation cases.....	1039
--------------------------------------	------

APPEALS, BOARD OF

Department of Industrial Relations.....	241
Director of Industrial Relations Department may propose rules and regulations.....	246
Petition and hearing of validity of rules.....	247
Review of rules.....	247
Revoking or amending rules.....	247

APPEALS, COURT OF

Appropriation	412
---------------------	-----

APPROPRIATIONS

Active Military Service.....	413, 1001
Adjutant General.....	413, 791
Advertising lands	412
After payment, surplus to credit of general fund in state treasury transferred to minimum program fund.....	599
Agricultural and Mechanical Institute at Normal.....	401
Agriculture and Industries, Department.....	413
Air Service Building Commission.....	418
Alabama College.....	401, 417
Alabama Insane Hospitals.....	416, 459
Alabama Polytechnic Institute and for Extension Work, and agri- cultural research.....	401, 402, 417
Alabama Public Service Commission.....	414
Alabama School of Trades and Industries.....	400
Alabama State Employment Service.....	413
Alabama Vocational School for Girls.....	504
Archives & History Department.....	411, 583
Armories	413
Armory Commission, paying mortgage indebtedness and other obligations	827
Assistant Director of Aeronautics.....	413
Attorney General.....	412
Auditor's office	412, 609
Available for departments and agencies.....	196
Aviation Commission.....	413
Black Belt Branch Station, Marion Junction.....	403
Board of Adjustment, State.....	418
Board of Education, State.....	360
Boards of Equalization	412
Boards of Pardons and Paroles.....	416, 431
Boys Industrial School.....	417
Budget and Financial Control Act.....	195
Burns, John C. relief for mileage tax paid after protest and objection	1050
Business Regulations.....	413
Charities, hospitals, corrections.....	415
Circuit Judges.....	412
Circuit Solicitors.....	412
Civilian Rehabilitation.....	400
Class A Renewal, Class C Renewal and Funding Renewal bonds.....	418
Codification of laws	15, 171, 461
Codification of laws provided by act approved April 21, 1936, re- turned to State Treasury.....	15
Commerce, Department.....	413
Confederate Museum at Richmond.....	418
Confederate Reunion.....	418

APPROPRIATIONS—Continued

Confederate Soldiers Home at Mountain Creek.....	419
Conservation Department.....	415
Construction additional buildings and purchase of lands.....	416
Construction and repair buildings and equipment Partlow State School for Mental Deficients.....	459
Contingent Fund.....	411
Corrections and Institutions, Department.....	176, 416
Court of Appeals.....	412
Cunningham, C. C., for damage to automobile on state highway.....	1060
Daniel, John W., Relief of.....	802
Daphne Normal School.....	401
Department of Conservation.....	263
Department of Education, State.....	417, 586
Department of Finance.....	412
Department of Industrial Relations.....	254
Department of Industrial Relations, for administering Workmen's Compensation Act.....	967
Department of Industrial Relations for program of factory and industrial plant inspection for safety of employees.....	967
Department of Revenue.....	412
Departments, boards, agencies, commissions, offices transferred to Department of Finance.....	153
Education.....	417, 721
Elections.....	413
Emergency appropriation State Board of Education.....	360
Emergency Fund.....	411
Erection of monuments on grounds of Memorial Building, to mem- ory of Spanish American War Veterans, World War Veterans.....	1029
Expenses legislature.....	1, 794
Expenses State Personnel Department.....	69
For indemnifying cattle owners of cattle reacting to tuberculosis, para-tuberculosis or Bang's disease tests.....	200
Fort McClellan with National Forest, Purchase of land for connec- tion.....	418
Free Text Books.....	400
From income tax to property tax relief fund amount for replace- ment of revenues lost by homestead exemption from ad va- lorem taxes.....	421
Gasoline taxes to provide sinking funds on outstanding highway bonds, renewal bonds, harbor improvement bonds.....	986
General government buildings, act making appropriation for ex- penses executive, legislative and judicial departments, interest of public debt, and public schools, act amended.....	4
Geological Survey.....	415
Governor's mansion.....	4, 44
Governor's office.....	411
Grove Hill Endowment.....	417
Gulf Coast Branch Station, Fairhope.....	403
Health and Sanitation, Conservation.....	414
Highway Department, Director.....	417, 865
Highways and Bridges.....	417
Illiteracy.....	721
Illiteracy Fund.....	400
Indemnifying owners of cattle slaughtered, matching Federal Funds.....	413
Industrial Relations Department.....	413
Institute for Deaf and Blind.....	417, 681

APPROPRIATIONS—Continued

Interest and Debt Service.....	418
Interest on James Wallace Fund.....	399
Interest on School Indemnity Lands.....	399
Interest on 16th Section Lands.....	399
Interest on surplus revenue.....	399
Interest on valueless 16th section lands.....	399
Lapsing.....	198
Law Enforcement.....	413
Mailing tax notices.....	412
Maintenance and repair general government buildings.....	413
Merit System.....	69
Military Department.....	413, 791, 1001
Military purposes, expenses Armory Commission.....	773
Milk Control Board.....	281
Minimum Program Fund to State Board of Education.....	399
Motor vehicle licenses collected to provide sinking funds on out- standing highway bonds, renewal and harbor improvement bonds.....	986
Moundville Park, purchase lands.....	415
Natural resources, development and conservation.....	415
Net profits liquor stores.....	526
Office equipment.....	412, 1020
Office space, telephone service, stationery, stamps and equipment provided circuit solicitors, deputy circuit solicitors and assistant deputy circuit solicitors.....	1020
Old age assistance.....	415, 696
Outstanding highway bonds, interest.....	417
Partlow State School.....	416, 459
Pensions.....	419, 685, 698
Personnel Department.....	418
Physical Restoration of Crippled Children.....	400
Pickwick Cafe, Inc.....	1033
Pierce, Junius J. and J. D. Jolly.....	348
Planning Commission.....	418, 474, 508
Portion surplus in State treasury to credit of general fund for retire- ment fund for teachers.....	807
Publication Alabama Historical Quarterly.....	953
Public School fund.....	399
Public Schools.....	399
Public Welfare, Department.....	415
Real Estate Commission.....	414
Reform School for Negroes.....	416
Relief of Jacob Laagar.....	1030
Relief of Sam Little.....	1029
Relief of Junius J. Pierce and J. D. Jolly.....	348
Research and experiments, Alabama Polytechnic Institute.....	403
Revolving Fund Schools.....	399
Salaries.....	33, 139
Sand Mountain Branch Station, Crossville.....	402
School of Trades and Industries.....	417
Secondary Agricultural School Demonstration Farms.....	400
Secretary of State.....	412
Securities Commission.....	414
Serum Plant, operation.....	413
Service Commission.....	418
Sinking fund on outstanding highway bonds.....	986

APPROPRIATIONS—Continued

Soil Conservation Committee.....	418
Southern Industrial Institute.....	507
Spanish War Veterans Encampment.....	418
Special Judiciary.....	412
State Board of Adjustment.....	418
State Board of Education.....	360
State Department of Education, Superintendent.....	417, 586
State Institutions.....	416
State Soil Conservation Committee.....	219
State Teachers Colleges.....	401
State Training School for Girls.....	417
Supreme Court.....	412
Surplus, Transfer.....	419
Teacher Training Equalization Fund.....	400
Tennessee Valley Branch Station, Belle Mina.....	402
Toxicologist, State.....	418, 584
Transferred to Department of Conservation.....	261
Transfer to Department of Finance.....	153
Transferred to Department of Industrial Relations, expense.....	238
Treasurer's office.....	412
Tuskegee Institute.....	506
Unemployment administration fund.....	753
Unexpended balance for Daphne Normal School available to county board of education of Baldwin County.....	762
United Daughters Confederacy.....	865
University of Alabama.....	401, 417
Vocational Education.....	400
Water resources.....	415
Wiregrass Branch Station, Headland.....	403
World War Orphans Scholarship.....	418

ARCHITECTS

See Board for Registration of Architects, State

ARCHIVES & HISTORY, DEPARTMENT

Appropriation.....	411
Director to edit Alabama Historical Quarterly.....	953
Duties, Director, salary.....	582, 583
Functions and duties as ex-officio compensation commissioner transferred to Director Industrial Relations.....	237
Funds available for public library service division.....	899
Public Library Service Division.....	297

ARMORIES

Acquisition lands by counties for.....	507
Appropriation.....	413
Provided.....	773
See Armory Commission	

ARMORY COMMISSION

Appropriation.....	1001-4
Appropriation paying mortgage indebtedness and other obligations.....	827
Construction armories.....	772
Governor authorized to use any part of unexpended balance of annual budget allotment made under active military service appropriation.....	827, 1001

INDEX GENERAL ACTS OF REGULAR SESSION

1125

ARMORY COMMISSION—Continued	
Payment of expenses incurred.....	773
Payments from military funds.....	773
Providing armories, grounds and other facilities.....	773
ARMS, COAT OF	
Description	176
How used.....	176
ARMY	
See Military Code amended	
ASSESSMENTS	
May be reduced for public improvement on property owned by state, city, county or organization.....	126
ASSISTANT ATTORNEY GENERAL	
Assistant legal counsel Department of Revenue commissioned, duties	5
Legal counsel, Department of Revenue, commissioned.....	5
ASSOCIATIONS, SAVINGS AND LOAN	
Application for certificate of incorporation.....	661
See Savings and Loan Act	
ATHLETIC FIELDS	
Acquisition lands by counties for.....	507
ATTORNEY GENERAL	
Action for dissolution fraternal benefit societies made by.....	936
Appropriation	50
Assistants	5, 59
Dockets of suits and claims.....	59
Duties	57
Duties in criminal cases.....	57
Examination of general statutes.....	57
Expenses	60
Legal adviser to Board of Control, Teachers Retirement System.....	566
Legal adviser to Public Service Commission.....	60
Member Alabama Pension Commission.....	684
Opinions in pamphlet form.....	57
Opinions to county officers.....	60
Printing of reports.....	58
Report	59
Report of laws held invalid.....	59
Salary	57
Shall assist code committee.....	57
Stenographers	59
ATTORNEYS	
Fee applicants for admission to state bar.....	871
Fee applicants to be examined by board of examiners.....	871
License of members.....	872
State treasurer to certify to board of commissioners names of attorneys paying license fee.....	872
ATTORNEYS GENERAL, ASSISTANT	
Legal services.....	94
Offices, location.....	94
Private practice prohibited, exceptions.....	94

AUDITOR, STATE

Appropriation	412, 609
Duties, powers, salary.....	608
Duties with respect to prescribing route of travel for prisoners transferred to State Department of Corrections and Institutions	120
Employees	609
Report	608
Transfer of certain functions and duties to the Department of finance	150

AUTOMOBILE MOTORS

Persons defacing trade marks or identifying marks when encum- bered with mortgage, conditional sale contract, penalty.....	1061
---	------

AUTOMOBILES

License for sale of, when no established place of business.....	498
License for sale of, more than one place of business	497
See Motor Vehicles	
Unlawful to transport campaign literature in state owned	1031

AVIATION COMMISSION

Appropriation	413
---------------------	-----

BAD DEBTS

Financial institutions, revenue act 1935 amended	496
--	-----

BAGS

Factories, taxes remitted	529
---------------------------------	-----

BAILIFF

Act providing for appointment or election of, to attend sessions grand jury of circuit court counties more than 200,000 popula- tion, App. April 19, 1933, repealed.....	31
Compensation, code section and act amended.....	113, 424
In judicial circuits having two and three circuit judges power of judge to appoint, salary, duties, term.....	424
Lodging and meals provided for jurors and	92

BALLOTS

Numbered, covered with seal.....	362
Penalty for failure to number.....	362
Right of voter.....	361
Seals covering numbers shall not be removed or broken, exception, penalty	362
Seals for covering numbers.....	362
Seals furnished as part of election supplies.....	362
Secret	361

BANG'S DISEASE

Appropriation for paying indemnities to cattle owners of cattle reacting to tests.....	200
---	-----

BANKHEAD, WILLIAM B

Joint resolution expressing appreciation	367
Joint resolution inviting Wm. B. Bankhead to address joint session of Legislature.....	367

BANKING BOARD

Duties transferred to Bureau of Banking of Department of Com- merce.....	11, 294
---	---------

BANKING, BUREAU OF

Board members.....	11, 294
Duties Banking Department, Banking Board and Superintendent of Banks transferred to.....	12, 294
Of Department of Commerce.....	11, 294
Superintendent of Banks chief officer.....	11, 294

BANKING DEPARTMENT

Duties transferred to Bureau of Banking of Department of Com- merce.....	11, 294
Salary.....	33, 139

BANKRUPTCY

Assignment for benefits of creditor priority.....	751
Contributions for unemployed, amount due same status other taxes due state, act amended.....	751

BANKS

Bonds or securities for deposit of state funds.....	349
Depository of state.....	349
Examination.....	803
May invest sinking funds in bonds and other obligations issued by housing authorities, provisions.....	901
No revocation, countermand or stop payment order shall remain in effect more than six months after service on bank unless renewed.....	1006
Not compelled to keep open for transaction business after twelve o'clock noon Saturday.....	1005
See Financial Institutions	
Validity of payment, certification or acceptance of a check or other negotiable instrument or other transaction when done or per- formed between twelve o'clock noon and midnight Saturday, not affected.....	1005

BANKS, SUPERINTENDENT OF

Bond.....	648
Bond of deputy.....	648
Chief officer Banking Bureau.....	11, 294
Commissioner Building and Loan Board.....	11, 294
Commissioner Savings and Loan Bureau.....	648
Duties transferred to Bureau of Banking of Department of Com- merce.....	11, 294
Examination banks.....	803
Member Banking Board.....	11, 294
Member Bureau of Building and Loan.....	11, 294
Proceeds special tax deposited.....	336
See Savings and Loan Act	

BAR, STATE

Applicants to be examined by board of examiners, fee.....	871
Fee of applicants for admission.....	871

BATTERIES

License for sale.....	966
-----------------------	-----

BATTERY SHOPS

License cities and towns certain population, act amended.....	967
---	-----

BECK-HARRISON BILL

Designation H. B. 223 as. joint resolution.....	483
---	-----

BENEFICIARIES

Right not affected under will to follow proceeds from sale of any such property in lieu of such property in hands of executors, administrators, heirs at law or distributees of such estate	45
---	----

BENEFIT CORPORATIONS

Amount capital stock necessary for organization	502
Copy articles of incorporation filed with Superintendent of Insurance, amount required	502
Mode of incorporation without capital stock	501

BENEFIT SOCIETIES

See Fraternal Benefit Societies	
Solvency, how determined	816

BLIND DEPARTMENT, ADULT

Alabama Institute for deaf and blind, established	680
Blind relief	680
Duties Superintendent Alabama Institute Deaf and Blind	680
Home instruction	680
Marketable products blind persons	680

BOARD FOR REGISTRATION OF ARCHITECTS, STATE

Application for registration	292
Assistants	291
Bond of secretary	291
Certificate, expiration	292
Chairman secretary	291
Compensation	291
Donations to educational institutions	291
Examinations	292
Fund	291
Meeting	290
Renewals	292
Revocations of certificates	293

BOARD OF ADJUSTMENT, STATE

Director of Finance member	151
See Adjustment, State Board	

BOARD OF ADMINISTRATION, STATE

Duties transferred to Director of Finance	151
President may become part of private corporation	39-44
See Alabama State Highway Corporation	
See Director of Finance	

BOARD OF COMMISSIONERS

Election of recorder, cities 15,000 to 50,000 population	55
May elect recorder in cities operating under commission form of government	118
Salary recorder cities 15,000 to 50,000 population	55

BOARD OF EDUCATION, STATE

See State Board of Education

BOARD OF EDUCATION, CITY

Application of approval of issuance of warrants	334
Authorized to borrow funds against current years revenues	612
Bonds issued to finance public works projects validated	396

BOARD OF EDUCATION, CITY—Continued

Cancellation employment contract teachers.....	759
Consolidation, administration city and county school systems, additional authority, effectiveness.....	757
Consolidation of administration and control public school system, establishing board of education, act repealed.....	425
Contract employment teachers.....	759
Cooperate with federal government for removal illiteracy and for maintaining adult educational programs.....	721
Corporation formed to assist county and city boards education to pay teachers salaries known as Alabama Public Schools Corporation.....	811
Election, term of members.....	757
May borrow money to pay operating expenses.....	345
Outstanding warrants validated.....	344
Proration costs and expenses inventory and appraisal of property by boards equalization.....	524, 828
Sale of warrants, purpose.....	334
Service status teachers.....	759
Shall keep record of warrants issued.....	343
State Superintendent to cooperate in securing Federal grants to assist in school building construction.....	586

BOARD OF EDUCATION, COUNTY

Act repealed providing pension or retiring allowance for teachers....	477
Application of approval of issuance of warrants.....	334
Authorized to borrow funds against current years revenues.....	612
Bonds issued to finance public works projects validated.....	396
Cancellation employment contract teachers.....	759
Consolidation administration city and county school systems, additional authority, effectiveness.....	757
Consolidation of administration and control public school system, establishing board of education, act repealed.....	425
Contract employment teachers.....	759
Cooperate with federal government for removal illiteracy and for maintaining adult educational programs.....	721
Corporation formed to assist county and city boards education to pay teachers salaries known as Alabama Public Schools Corporation.....	811
Duties to purchase supplies, etc.....	836
Election, term of members.....	757
Management and control public schools, cities 40,000 to 67,000 population, duties.....	836
May borrow money to pay operating expenses.....	345
Outstanding warrants validated.....	344
Proration costs and expenses inventory and appraisal property by boards equalization.....	524, 828
Sale of warrants, purpose.....	334
School census.....	838
Service status teachers.....	759
Shall keep record of warrants issued.....	343
State Superintendent to cooperate in securing Federal grants to assist in school building construction.....	586
Unexpended appropriation Daphne Normal School abolished, available to.....	761

BOARD OF EDUCATION, STATE

Agreement for Superintendent Alabama Institute for Deaf and Blind to expend funds for vocational training, etc.....	680
Agricultural and Mechanical Institute, appropriation.....	401
Alabama College, appropriation.....	401
Alabama Polytechnic Institute and for Extension work, and agricultural research.....	402
Alabama School of Trades and Industries, appropriation.....	400
Amount may be used for matching Federal funds for public library service division.....	899
Appropriation for extension of school terms, apportionment.....	360
Authorized abolish and discontinue Daphne Normal School.....	761
Average index of financial ability of counties to support minimum school program.....	480
Black Belt Branch Station, Marion Junction.....	403
Bonds issued to finance public works projects validated.....	396
Cancellation employment contract teachers.....	759
Civilian Rehabilitation, appropriation.....	400
Consolidation administration city and county school systems, additional authority.....	425, 756
Contract employment teachers.....	759
Cooperate with federal government for removal illiteracy and for maintaining adult educational programs.....	721
Corporation formed to assist county and city boards education to pay teachers salaries.....	811
Daphne Normal School, appropriation.....	401
Demonstration farms operated by Alabama Polytechnic Institute.....	882
Free Text Books, appropriation.....	400
Gulf Coast Branch Station, Fairhope.....	403
Illiteracy Fund, appropriation.....	400
Index of financial ability of each county support minimum school program.....	479
Minimum program fund.....	399
Minimum program fund expended in accordance with regulations.....	600
Percent of total assessed valuation of state and county.....	480
Physical Restoration of Crippled Children, appropriation.....	400
Proportionate share of public school revenue to Class "C" cities.....	838
Research and experiments, Alabama Polytechnic Institute.....	403
Retention lands demonstration farms for school purposes.....	882
Revolving fund appropriated.....	399
Sand Mountain Branch Station, Crossville.....	402
Secondary Agricultural School Demonstration Farms, appropriation.....	400
Service status teachers.....	759
Shall determine amount needed for each county.....	480
Shall determine total local funds available to counties.....	480
Shall determine total local funds available to provide minimum school program.....	480
State Teachers Colleges, appropriation.....	401
Teacher Training Equalization Fund, appropriation.....	400
Tennessee Valley Branch Station, Belle Mina.....	402
University of Alabama, appropriation.....	401
Vocational Education, appropriation.....	400
Wiregrass Branch Station, Headland.....	403

BOARD OF EQUALIZATION, COUNTY

Names submitted to Commissioner of Revenue.....	178-9
See County Board of Equalization	

BOARD OF FINANCE AND CONTROL

Act providing that counties 41,000 or more population authorized employ stenographers, clerks and assistants, App. Feb. 24, 1937, repealed.....	33
---	----

BOARD OF HEALTH, COUNTY

Rabies inspector.....	330
Veterinarian	330

BOARD OF PARDONS & PAROLES, STATE

See Pardons and Paroles, State Board

BOARD OF REGISTRARS

Act fixing salary, election clerk ex-officio clerk of, counties 75,000 to 100,000 population, repealed.....	142
---	-----

BOARDS OF REVENUE

Act authorizing certain counties to expend county funds, repealed	117
Act fixing salary for clerical help and, certain counties, repealed.....	113
Affiliation of rural and county libraries.....	352
Joint library service.....	352
May establish and maintain free public libraries.....	350
May hire state convicts to work on public roads and bridges, public work	534
Salary and mileage, code section amended.....	1049
See County Board of Equalization	
See Courts of County Commissioners	
See Old Age Assistance	
Shall appoint library board, membership	351

BOARDS OF REVIEW

Abolished	189
Sections of act providing for general revenue of State, App. July 10, 1935, repealed.....	189

BOARD, STATE PERSONNEL

See Merit System Act

BONDS

Actuary in Bureau of Insurance, where filed	819
After provision made for payment installments of interest and principal pursuant to 1935 Act out of surplus of income tax, appropriation to property tax relief fund for replacement of revenues lost by exemption from state ad valorem taxes	421
Agents for collection sales tax	27
Agreements pledged for protection holders of, issued by housing authorities, ratified.....	983
Alabama State Highway Corporation may issue bonds for construction roads and bridges	39-44
Appropriation	417
Appropriation for sinking funds for retirement renewal bonds, Harbor Improvement bonds.....	986
Appropriation of gasoline taxes and motor vehicle licenses to provide sinking funds on outstanding highway.....	986
Commissioner and deputy Savings and Loan Bureau.....	648
County, county and municipal for construction commission, exempt	936
Deputy sheriff counties 34,000 to 35,000 population	682
Directors, officers and employees savings and loan associations, where filed	626

BONDS—Continued

Engaged in entomology, pathology, horticulture, floriculture, tree surgery	866
Examiner in Bureau of Insurance, where filed	819
Exchange	537, 551
Executive officer Board Nurses Examiners and Registration	699
Filed with Department of Revenue for distribution gasoline and motor fuels	974
Funds retirement system invested in United States Government, state or county	766
Highway patrolmen	307
Housing authorities, authorized to be purchased by cities, towns, villages, counties and other public bodies	984
Housing authorities, sale	222, 223
Income on obligations of United States or agencies shall be included in gross income in determining income taxes	93
Issuance authorized to pay or retire outstanding bonds of Alabama Bridge Commission (an agency of the State of Alabama)	535, 574
Issuance authorized to pay or retire bonds of Alabama Bridge Corporation and Alabama Bridge Authority, Inc., outstanding, constitutional amendment proposed	576
Issuance authorized to pay or retire outstanding bonds of Alabama State Bridge Corporation and Alabama Bridge Authority, Inc.	550, 576
Issued by counties to settle, adjust and refund indebtedness	290
Issued by housing authorities security for public deposits	900
Issued to finance public works projects validated	396
Itinerant vendors of personal property at retail	26
Maturity	577
May be issued for refunding installments	290
Milk dealers	276, 875
Motor carriers	1057
Motor vehicle license taxes used to create sinking fund for payment of principal and interest on good road bonds, construction highway	518
Notice of public sale	536, 550
Officers and employees Municipal Electric Utility Boards	678
Operation warehouse, where recorded and filed	588, 589
Outstanding bonds cities and towns paid by water board in transfer of water works	716
Pledge of gasoline excise tax authorized to be pledged to highway bonds, refund bonds of Alabama Bridge Corporation and Alabama Bridge Authority, Inc.	577
Portion proceeds excise tax on gasoline set aside for cities	792-794
Proceeds	536, 550
Recorder of permits and licenses, Alabama Boxing and Wrestling Commission	706
Record of bonds sold furnished by State Treasurer to Director of Finance	537, 551
Redemption premium	537, 551
Reduction of amount of executor, administrator or guardian pending final settlement	883
Rental on housing projects shall be sufficient to pay principal and interest on	981
Required of distributors of gasoline and motor fuels	974
Sale	536, 550
Sale liquified petroleum gas and installation equipment	970

BONDS—Continued

Secured by pledge of percent of gasoline excise tax to pay or retire bonds of Alabama Bridge Commission (an agency of the State of Alabama).....	575
See Commission	
See Security Receipts	
See Uniform Principal and Income Tax	
Self-insurer in workmen's compensation.....	1038
State authorized to issue to pay or retire bonds of Alabama Bridge Commission (an agency of the State of Alabama)	
Sureties released and discharged from liability.....	974
Temporary loans shall not exceed percentage of uncollected taxes.....	577
Trust Fund.....	536, 550
Water Works Board cities and towns	715
Where filed.....	603, 588, 589

BOUNDARIES OF HOUSING AUTHORITIES

Area	222
------------	-----

BOXING AND WRESTLING COMMISSION, ALABAMA

Authorizing boxing, sparring, wrestling matches and exhibitions	703, 782
Boxing, sparring or wrestling matches prohibited on Sundays.....	703
Chairman recorder of permits and licenses, compensation, bond.....	705
Circuit solicitors, sheriffs required to enforce rules and orders.....	707
Contestant not paid for services before contest.....	707
Created, membership, terms.....	703-4
Gross receipts, percentage.....	704
Inspectors	704
Licenses and permits.....	704, 707
National Guard, Naval Militia not required to obtain license to hold matches	708, 782
Penalties	706
Revocation licenses and permits.....	704
Rules and regulations.....	704
Secretary, salary.....	705-6
Suits brought in name of Commission.....	708
Suspension of contestants.....	707

BOXING EXHIBITIONS

Authorized by Alabama Boxing and Wrestling Commission.....	703, 782
See Boxing and Wrestling Commission, Alabama	
See Military Code Amended	
When prohibited.....	703

BOYS INDUSTRIAL SCHOOL

Appropriation	417
---------------------	-----

BRIDGE AUTHORITY, ALABAMA

Issuance bonds authorized to pay or retire outstanding bonds of....	550
See Alabama Bridge Authority	

BRIDGE COMMISSION, ALABAMA (an agency of the State of Alabama)

Issuance bonds authorized to pay or retire outstanding bonds Alabama Bridge Commission (an agency of the State of Alabama)	537
See Alabama Bridge Commission	

BRIDGE CORPORATION, ALABAMA STATE

Issuance bonds authorized to pay or retire outstanding bonds of....	550
See Alabama State Bridge Corporation	

BRIDGES

Appropriation	417
Construction	41
Construction, commission formed.....	936
Duties county engineer.....	869
Officers and employees State Highway Department authorized cross land individuals, corporations to make survey for con- struction highways, roads and bridges, and to secure samples of lands	363
See Alabama Bridge Authority	
See Alabama Bridge Commission (an agency of the State of Ala- bama)	
See Alabama State Bridge Corporation	
See Alabama State Highway Corporation	
See Commission	

BUDGET

When presented to Governor.....	194
---------------------------------	-----

BUDGET AND FINANCIAL CONTROL ACT 1932

Allotments	196
Appropriations	195
Departmental and industrial receipts.....	197
Emergency appropriations and the method of their use.....	198
Estimates of appropriation, when submitted.....	193
Estimates of income, when made.....	194
Forms and contents of budget.....	192
Formulation of budget.....	195
Hearings on budget.....	194
Lapsing of appropriations.....	198
Penalties and punishment for violation.....	198
Sections amended.....	190-99
Sections 1-9A, App. Sept. 27, 1932, repealed.....	151
Tentative budget, when made.....	194
Transmission of budget to Legislature.....	191

BUDGET, DIVISION OF

Established	156-57
-------------------	--------

BUDGET OFFICER

Duties	156-57
Oath	161
Salary	161

BUDGET SYSTEM

Budgeted expenditures may not exceed budgeted income.....	611
County and city treasurer to certify estimated funds available.....	611
Established for county and state school system.....	610
Form of annual budget required.....	610
Funds may be borrowed against revenues of current years.....	612
Interest rate on current loans.....	613
Payment of teachers salaries when due.....	614
Penalty for exceeding budget.....	612
State Comptroller and State Superintendent of Education to esti- mate funds.....	610
Unfunded debts.....	614
When budget is official.....	611

BUILDING AND LOAN ASSOCIATIONS

Conversion into savings and loan associations.....	673
Dissolution	805
Escheats	806
Failure to become savings and loan associations.....	672
Invest sinking funds in bonds and other obligations issued by housing authorities	901
Merger	672
Qualification as a savings and loan association	673
Reenactment of laws applicable to savings and loans associations	658, 672
Report to Commissioner Building & Loan	805
Sale of assets, distribution proceeds among members and stockholders	804
See Savings and Loan Act	
Shares in succeeding corporations.....	672
Unclaimed and undistributed funds	805

BUILDING & LOAN, BUREAU OF, OF DEPARTMENT OF COMMERCE

Commissioner, chief officer.....	11, 295
Members	11, 295
Of Department of Commerce.....	11, 295
Superintendent of Banks member	11, 295

BUILDING AND LOAN, COMMISSIONER

Application amount due member or stockholder.....	805
Building and loan association having sold assets and distributed proceeds, remittance to members and stockholders not received prorata share	804
Certificate list of funds held in trust.....	804
Certification list of funds remaining	804
Dissolution building and loan associations.....	805

BUILDING & LOAN DEPARTMENT

Duties Building and Loan Board transferred to Bureau of Building and Loan of the Department of Commerce.....	11, 296
Duties transferred to Bureau of Building & Loan of the Department of Commerce.....	11, 296

BUILDINGS

Permits required to erect, construct, enlarge, move or demolish....	997
See County Engineer	

BUREAU OF INSURANCE

Salary	33, 139
--------------	---------

BURGLARY

Defined, penalty.....	38
-----------------------	----

BURNS, JOHN C.

Relief for mileage tax paid State after protest and objection.....	1050
--	------

BUS

Unlawful riding.....	349
----------------------	-----

BUSSES, SCHOOL

See Alabama Motor Carrier Act of 1939	
---	--

CALHOUN-HARDWICK BILL

Joint resolution designating S. B. 204 and S. B. 294 as.....	762
--	-----

CANDIDATES

Unlawful for officers or employees of state to use state property for promotion or advancement of interest of, for nomination or election to public office.....	1031
---	------

CAPITOL BUILDING COMMISSION

Directory Department of Archives & History secretary.....	582
---	-----

CAPITOL CUSTODIAN

Salary.....	33, 139
-------------	---------

CARNIVAL

License	515
---------------	-----

CATTLE

Appraisal	200
Condemned and slaughtered after reaction to tests, prescribed by U. S. Bureau of Animal Industry rules and regulations, appropriation	200

CEMETERY, NATIONAL

Conveyance of ownership of lands for National Cemetery, Chilton County, Mountain Creek.....	226
---	-----

CENSUS

Date of reclassification under any law requiring classification based on Federal Decennial population census.....	388
---	-----

CHANCERY COURTS

Administration of estates of persons of unsound mind removed from probate court to circuit court.....	168
Duties register	509-12
Recording documents.....	509-15

CHECKS

Banks not compelled to remain open after twelve o'clock noon Saturday for transaction business.....	1005
No notice affecting check upon which revocation, countermand or stop-payment order has been made at time of taking effect shall be deemed to continue for a period of more than six months thereafter.....	1006
No revocation, countermand or stop-payment order shall remain in effect more than six months after service on bank, unless renewed	1006
Validity not affected when payment, certification or acceptance done or performed between twelve o'clock noon and midnight Saturday, provision.....	1005

CHEMICAL ANALYSIS

By State Toxicologist.....	585
----------------------------	-----

CHEROKEE COUNTY

Legislature may fix, regulate and alter fees, commissions, allowances and salaries, and method or basis of compensation, to be charged or received by tax assessors, tax collectors, probate judges, circuit clerks, sheriffs and registers of equity courts, right to place on salary, in the counties of Etowah and Cherokee, proposed constitutional amendment.....	1034
--	------

CHILDREN

Act providing medical, surgical treatment, hospitalization crippled children, amended, relating to funds.....	487
Act relating to neglected, delinquent and dependent children, certain counties, establishing juvenile and domestic relations court, repealed.....	62-4
Amount inadequate for purchase homestead.....	864
Amount set aside used for support.....	864
Cause pending in Juvenile and Domestic Relations Court shall not abate.....	62-4
Cause pending in Juvenile and Domestic Relations Court transferred to created court.....	62-4
Guardian ad litem.....	864
Joint resolution requesting Congress to support legislation to provide equal educational opportunities for Alabama's children.....	131
State and federal funds made available.....	487

CHILTON COUNTY

Conveyance of ownership of lands in Mountain Creek for National Cemetery.....	226
---	-----

CHIROPODY

Qualifications for practice of.....	600
-------------------------------------	-----

CIRCUIT CLERK

Constitutional amendment providing Legislature may fix, regulate and alter costs and charges of courts, fees, commissions, allowances and salaries to be charged to received by any county officer of Morgan County, including method and basis of compensation, providing for salary, fees and costs to be paid into county treasury.....	386
Duties in probation cases.....	434
Duties, recording documents.....	509-12
Fees in probation cases.....	434
Holding office as register, salary, proposed constitutional amendment.....	896
Legislature may fix, regulate and alter fees, commissions, allowances and salaries, and method or basis of compensation, to be charged or received by tax assessors, tax collectors, probate judges, circuit clerks, sheriffs and registers of equity courts, right to place on salary, in the counties of Etowah and Cherokee proposed constitutional amendment.....	1034
Released and discharged from liability for failure collect and disburse trial tax.....	615
To docket name delinquent sales tax payer.....	24
To keep record of names of attorneys appointed for defendants unable to employ counsel.....	463

CIRCUIT COURT

Act providing for appointment or election of bailiff to attend sessions grand jury counties more than 200,000 population, App. April 19, 1933, repealed.....	31
Causes of removal of trustee, code section amended.....	478
Clerk shall report disposition of workmen's compensation cases to the Department of Industrial Relations.....	1044
Compensation bailiffs, code section and act amended.....	114, 424
Direction of duties of judges by presiding judge.....	353

CIRCUIT COURT—Continued

Dissolution building and loan associations.....	805
Divisions	353
Duties clerks, recording documents.....	509-12-14
Duties in probation cases.....	434
Duties register	509-514
Excusing jurors in certain circuits.....	61
Execution on judgments, motion filed in office of clerk, or register	167
Laws applicable in administration of estates applicable in probate	
courts	1000
May suspend execution of sentence and place persons on probation	434
Power of judgment or decree.....	167
Probate courts general equity jurisdiction concurrent with circuit	
courts, in equity, in administration of estates, see Judges of	
Probate	1000
Probate courts shall have same powers and authority which judges	
and registers have in administration of estates.....	1000
Probate courts shall perform duties of judges and registers of, in	
administration of estates.....	1001
Probate judges entitled to assess and collect same costs, fees and	
commissions as authorized to be assessed and collected by	
registers in administration of estates.....	1001
Recording documents.....	509-14
See Probation	
See Suspension of Sentence	
Shall appoint new trustee in place of trustee removed.....	479
Time when shall open and close.....	93
When may remove trustees, code section amended.....	478
When sentence not suspended.....	434

CIRCUIT JUDGES

Agent appointed to take charge revenues county or municipality in	
default, compensation determined.....	717
Amount inadequate for purchase homestead, support of widow and	
minors	864
Appropriation	412
Direction of duties by presiding judge.....	353
Divisions	353
Duty to appoint counsel for defendants unable to employ.....	463
Judges of probate to certify names of attorneys paying license fee....	872
May excuse jurors from attending court during week for which	
drawn and summoned.....	61

CIRCUITS, JUDICIAL

Appointment chief clerk by circuit solicitors certain judicial	
circuits	971
Assistant solicitor circuits one county with more than two and less	
than nine circuit judges, act repealed.....	422
Circuit Judge to appoint counsel for defendants unable to employ....	463
Compensation bailiffs, code section and act amended.....	113, 424
Execution on judgments, motion filed in office of clerk or register	167
Of one county and more than two and less than nine circuit judges,	
appointment of two assistant solicitors, duties, salary, term.....	423
Of one county having two and three circuit judges, power of judges	
to appoint one baliff, salary, term.....	424
Power of judgment or decree.....	167
State divided into.....	583
Time when courts shall open and close.....	93

CIRCUIT SOLICITORS

Advise parole officers	470
Appointment chief clerk in judicial circuits composed of only three counties	971
Appropriation	412
Assistant deputy solicitors, office regulated	471
Duties	469
Duties in probation cases	434
Duties with reference to bills of exception	470
Expenses allowed	469
Investigation pardon and parole cases	470
Office deputy solicitor regulated	469
Office regulated in judicial circuits	469
Office space, telephone service, stationery, stamps and equipment provided	1020
Salaries	470-1
See Probation	
See Suspension of Sentence	
Suspension of operation of act providing for appointment chief clerk	972
Term of office of chief clerk, salary	971-72

CIRCUIT SOLICITORS, DEPUTY

Office deputy circuit solicitors regulated	470
Office space, telephone service, stationery, stamps and equipment provided	1020

CITIES

Board of commissioners may elect recorder when operating under commission form of government	118
Governing body may dissolve consolidation and administration county and city schools located within corporate limits	557
Lease of wharves	38
License for sale of motor vehicle accessories	966
Licenses for selling automobiles, trucks, etc.	497
Period of time within which police and fire departments may reorganize under civil service regulations, 20,000 to 50,000 population	44
Resolution of governing body adopted by majority of members for rendering service, conveying or leasing of property, cooperating with housing authorities	985
See Class "D" cities	
State, county and city boards of education authorized to cooperate with federal government in removal of illiteracy	721

CITIES AND TOWNS

Appropriation from net proceeds liquor stores, how distributed	526
Authorized to donate, convey and grant land and monies for state park system	879
Authorized to enter into agreement with water board to effectuate transfer of water works	717
Authorized to transfer and convey water works to water board, pursuant to ordinance	716
Bonds issued to finance public works project validated	396
Commission form of government, not within influence or operation any other valid legislative enactment, act amended, certain population	408, 440-41
Creating housing authorities shall have power to lend or donate money thereto	986

CITIES AND TOWNS—Continued	
Distribution motor vehicles and trailer license fees to	518
Gasoline filling stations and pumps, privilege license, General Revenue Act of 1935, amended	968
License on battery shops, act amended	967
Licenses for selling automobiles, trucks, etc.	497
Portion proceeds excise tax on gasoline set aside	792
Power to reduce assessments for public improvements on property owned by state, town, city, county or organization	126
Powers water works system property of	714
See Trucks	
Speed of trucks and motor vehicles	689
Transfer water works to water board, outstanding bonds paid by water board	716
Water works system property of	714
CITIES AND TOWNS 2,500 POPULATION AND LESS	
License for sale of automobiles, trucks, etc.	497
CITIES AND TOWNS 2,500 TO 5,000 POPULATION	
License for sale of automobiles, trucks, etc.	497
CITIES OR TOWNS LESS THAN 5000	
Privilege license or taxes from motor bus terminals and motor carriers	1089
CITIES AND TOWNS 5,000 to 12,000 POPULATION	
Gasoline filling stations and pumps, license, act amended	968
CITIES AND TOWNS 5,000 TO 10,000 POPULATION	
License for sale of automobiles, trucks, etc.	497
CITIES OR TOWNS 5,000 to 25,000 POPULATION	
Privilege or license tax, motor bus terminals and motor carriers	1089
CITIES AND TOWNS 5,000 to 15,000 POPULATION	
License on battery shops, act amended	967
CITIES AND TOWNS 10,000 TO 25,000 POPULATION	
License for sale of automobiles, trucks, etc.	497
CITIES AND TOWNS 12,000 to 40,000 POPULATION	
Gasoline filling stations and pumps, license, act amended	968
CITIES AND TOWNS 15,000 to 60,000 POPULATION	
License on battery shops, act amended	967
CITIES AND TOWNS LESS THAN 20,000 POPULATION	
Power to reduce assessments for public improvements on property owned by state, town, city, county or organization	126
CITIES OR TOWNS MORE THAN 25,000 POPULATION	
Privilege or license tax motor bus terminals and motor carriers	1089
CITIES AND TOWNS 25,000 TO 50,000 POPULATION	
License for sale of automobiles, trucks, etc.	497
CITIES AND TOWNS 40,000 to 100,000 POPULATION	
Gasoline filling stations and pumps, license, act amended	968
CITIES AND TOWNS OVER 50,000 POPULATION	
License for sale of automobiles, trucks, etc.	497

INDEX GENERAL ACTS OF REGULAR SESSION 1141

CITIES AND TOWNS OVER 60,000 POPULATION	
License on battery shops, act amended.....	967
CITIES 2000 to 5000 POPULATION	
License for sale of motor vehicle accessories.....	966
CITIES 5,000 to 25,000 POPULATION	
License for sale of motor vehicle accessories.....	966
CITIES 6,000 TO 15,000 POPULATION	
City council may dissolve consolidation and administration county and city schools within corporate limits.....	557
Control of educational matters.....	557
CITIES 6,500 TO 15,000 POPULATION	
Sale of property applicable to assessment and collection of taxes, general revenue act of 1935, App. July 10, 1935, amended.....	67
CITIES 7,500 POPULATION	
Salary commissioners and associates.....	440
CITIES 7,500 TO 15,000 POPULATION	
Salary commissioners and associates.....	440
CITIES MORE THAN 15,000 POPULATION	
Salary commissioners and associates.....	440
CITIES 15,000 TO 50,000 POPULATION	
Election recorder provided.....	55
Salary commissioners and associates.....	440
CITIES 20,000 TO 50,000 POPULATION	
Period of time within which police and fire departments may re- organize under civil service regulations.....	44
CITIES 22,000 TO 60,000 POPULATION	
Class "D" cities, act approved March 6, 1931, as amended March 24, 1936.....	46, 388
CITIES 24,000 TO 40,000 POPULATION	
Class "D" cities, act approved Mar. 6, 1931, as amended March 24, 1936.....	46, 388
See Class "D" cities	
CITIES 25,000 to 100,000 POPULATION	
License for sale of motor vehicle accessories.....	966
CITIES 35,000 TO 67,000 POPULATION	
Act creating inferior courts in lieu of justices of the peace repealed	175
CITIES 40,000 TO 67,000 POPULATION	
See Class "C" Cities	
See Commission form of government cities 40,000 to 67,000 popula- tion	
CITIES OVER 50,000 POPULATION	
License for sale of automobiles, trucks, etc.....	497
Salary, mayor-president board of commissioners and associates.....	440

CITIES 65,000 OR MORE POPULATION

Candidate for commissioner shall state position which he seeks, act amended	442
Election commissioners, commission form of government, act App. April 8, 1911, amended Sept. 28, 1915.....	408

CITIES 100,000 OR MORE POPULATION

Borrowing money regulated	862
Emergency for loans	862
Exemptions from limitation	862
Gasoline filling stations and pumps, license, act amended.....	968
License for sale of motor vehicle accessories.....	966
Limitation on borrowing.....	862
Pension and relief fund	795-802
Policemen's pension and relief fund, act amended.....	926
Privilege or license tax motor bus terminals and motor carriers.....	1089
Retirement of obligations.....	862
Temporary loans	862

CITIES 200,000 OR MORE POPULATION

Board of trustees of firemen's pension and relief fund	914
Firemen's Pension and relief fund, act amended and reenacted.....	910
Lawful for delicatessen stores to remain open on Sunday to sell delicatessen products.....	482

CITY COUNCIL

May dissolve consolidation and administration county and city schools within corporate limits	557
---	-----

CITY SCHOOL SYSTEM

Appropriation for extension of school terms, apportionment	360
Budget prepared.....	610
See Budget System	

CIVIL SERVICE REGULATIONS

Period of time within which police and fire departments may reorganize, act amended, cities 20,000 to 50,000 population.....	44
--	----

CIVIL SERVICE SYSTEM

Members county boards of equalization acquire permanent civil service status.....	827
Members county boards of equalization appointed under provisions act creating	827
Membership in any national, state or local committee shall not disqualify holding position under.....	863
See Merit System	

CIVIL SERVICE SYSTEM CITIES 100,000 OR MORE POPULATION

Applicability	795
Applicable to widows	795
Not applicable to unskilled day laborers	795
See Pension and Relief Fund	

CIVIL SERVICE SYSTEM COUNTIES 200,000 OR MORE POPULATION

Applications	321
Appointment subordinates.....	320, 547
Appointments	323
Certification of payrolls.....	327

CIVIL SERVICE SYSTEM, COUNTIES 200,000 OR MORE

POPULATION—Continued	
Citizens Supervisory Commission	314
Classified Service	310, 544
Creation office of Director of Personnel	319
Definitions	310, 544
Dismissal and suspension	325
Examinations	321
Independent contractors	311
Local citizens appointed	324
Members board	313
Personnel Board	310, 544
Political activities prohibited	328
Promotions	325
Provisional appointments	324
Removal subordinates	320, 547
Rules and regulations	320, 547
Salary schedule	320, 547
Status of present employees	322
Survey of necessity for personnel	322
Transfers and reinstatements	325
Unclassified service	310, 544
Vacations	324

CLAIMS

Officers of courts authorized to satisfy, against estates of deceased persons	109
---	-----

CLASS "C" CITIES

Abandonment of organization	857
Absentee voting	853, 854
Acts repealed	858
Application act to cities hereafter having population 40,000	834
Board of Commissioners	834-35
Board of commissioners to make appropriations for support and maintenance schools	836
Bribery	855
Commissioners, how appointed and elected	833
Compensation judge of probate	857
Contests of election	853
Duty board of education to purchase school supplies, buildings	836
Employers prohibited from receiving gifts, exception	836
Employees, selection, approval, prohibitions	838, 855, 856
Enrollment voters	853
Examination of accounts	855
Governed and controlled by board commissioners	838
Grants, franchises, leases	839
Management and control public schools	836
No extra compensation employees	861
Pension systems	859
Petition for candidacy	856
Property for school purposes, sale	836
Public meetings board of commissioners	838
Recorder	856
Register retired employees	860
Regulating amusements on Sunday	835, 845
Resolutions board of commissioners, effective date	839
Salary commissioner	845

CLASS "C" CITIES—Continued

Term of office of commissioners, election.....	834, 845, 855, 856
Territorial limits.....	835
Vacancies on board	844

CLASS "D" CITIES

Board of commissioners, powers	47, 48, 49
Board of Trustees of Policemen's and Firemen's Retirement Fund, membership	131, 132
Bond of commissioners	50
Books and accounts audited	51
Chairman of commission required to devote entire time to duties.....	50
Cities 22,000 to 60,000 population	47
Cities 24,000 to 40,000 population	47
Commission form of government.....	47
Contract interests prohibited.....	51
Election chairman and two associate commissioners.....	47, 50
Employees	48
General laws shall not operate to alter, duties, formation, etc.....	52
Management and control public schools.....	48
Meetings board of commissioners.....	49
Municipal judge.....	50
Offices mayor and aldermen abolished.....	47
Ordinances	49
Persons related prohibited employment	51
Policemen's and Firemen's Retirement Fund.....	131-39
Publication of examination of records.....	51
Recorder	50
State examiner may examine records.....	51
Terms of office of chairman and associate commissioners, salaries.....	47, 50
Territorial limits.....	47

CLASSIFICATION

Change in census cities 40,000 to 67,000 population.....	833, 861
Change in cities 40,000 to 67,000 population	833, 861
Date of, under any law based on Federal Decennial population census required.....	388

COAT OF ARMS

Description	176
How used.....	176

CODE

Joint Committee created to read manuscript	14, 171, 462
Joint resolution commending W. S. Welch and John A. Lusk, chairman and vice-chairman, and members of Joint Committee of two Houses of Legislature, for successful completion of 1940 Code	1004

CODE COMMISSION

Duties with reference to codification code of laws.....	996
See Code of laws	
Shall deliver manuscript to code commissioner.....	996

CODE COMMISSIONER

Act providing for revision, codification, digesting and promulgation of public statutes, approved April 21, 1936, repealed.....	15
Compensation	15, 460
Duties	14, 460

CODE COMMISSION—Continued

Governor authorized to employ	14, 172, 460
Joint resolution commending W. S. Welch and John A. Lusk, chairman and vice-chairman, and members of Joint Committee of two Houses of Legislature, for successful completion of 1940 Code	1004
Members	460
Number copies code to be purchased by State	15, 460
Secretary of State to supply law books and supplies	15, 172, 460
Time in which code shall be delivered	14, 460
To contract for preparation and publication of code	460
Unexpended appropriation previous act returned to State Treasury	15

CODE OF LAWS

Act providing for revision, codification, digesting and promulgation of such statutes, approved April 21, 1936, repealed	15
Adopted	995
Appropriation	996
Commission, members, duties, compensation	996
Distribution	1023-27
Effective date	996
Governor authorized to employ commissioner to prepare	14, 460
Joint resolution commending W. S. Welch and John A. Lusk, chairman and vice-chairman, and members of Joint Committee of two Houses of Legislature, for successful completion of 1940 Code	1004
Manuscript, minutes and records of joint committee two houses to chairman of committee, vice chairman and speaker pro tem of House of Representatives, constituting commission	996
Number copies to be purchased by State	15, 460
Repealing provisions act providing for	995
Time in which code shall be delivered	14, 460
Title to remain in state	1025
Unexpended appropriation previous act returned to State treasury	15

CODE OF 1923 AMENDED

Section 853. Duties Attorney General	57
Section 855. May appoint assistants and stenographers to the Attorney General	59
Section 865. Necessary expenses incurred, how paid	60
Section 867. Annual appropriation	60
Section 868. Attorney General to give opinion in writing to county officers	60
Section 871. Legal adviser to public service commission; assistant attorney general	60
Section 892. Applications, verified statements, and securities of banks filed before designated depositaries	349
Section 1104. Physicians and others required to report cases of ve- nereal diseases to the county health officer	370
Section 1106. Persons required to be treated	486
Section 1107. Examination and Treatment of Prisoners	369
Section 1114. Suppression of prostitution declared a public health measure, and prostitution declared to be presumptive evidence of venereal disease infection	370
Section 1180. Board of Nurses Examiners and Registration created	700
Section 1181. Appointment of examining and registration board by Governor	701

CODE OF 1923 AMENDED—Continued

Section 1182. Term of office, vacancy.....	701
Section 1183. Officers of Board; seal of Board, rules to be adopted.....	701
Section 1184. Record of meetings.....	701
Section 1186. Examinations, notice of.....	701
Section 1187. Examination of applicants; registration.....	702
Section 1442. Application to and of probate judge for admission of patient, contents.....	169
Section 1444. Certificate of probate judge for admission of patient; form and contents of.....	172-4
Section 1545. Libraries established by counties.....	350
Section 1546. Library board provided.....	351
Section 1547. Powers and duties library board.....	351
Section 1548. Affiliation of rural and county libraries.....	352
Section 1883. Canvassing returns.....	1008
Section 2018. Scales, weights, measures, water courses, wharves, parks, boulevards, etc.....	38
Section 2837. Branches of learning examined upon.....	600
Section 2867. Examinations held at Montgomery.....	167
Section 3770. Fees of state witnesses when subpoenaed in more cases than one.....	35
Section 4549. Secret records of indictment made and kept by clerk; uses of.....	509
Section 5363. Unlawful riding on trains, to include busses or trucks.....	349
Section 6289. Examination of banks.....	803
Section 6507. Duties of register.....	509
Section 6665. State divided into Judicial Circuits.....	583
Section 6670. Executions on judgments; new trial must be asked in thirty days.....	167
Section 6672. When courts to be opened and closed, time changed.....	93
Section 6687. Divisions of court in circuit.....	353
Section 6696. Change in order of business.....	353
Section 6717. Compensation to such bailiffs, act amending App. Feb. 20, 1931.....	113, 424
Section 6724. Duties Clerks Circuit Courts.....	512
Section 6752. Regular terms, etc.....	932
Section 6771. Compensation of county commissioners.....	1049
Section 6898. Conditional Sales, Leases, Etc., to be Recorded.....	1006
Section 7028. Railroads to acquire and operate steamboats, etc.....	1019
Section 7043. Proceedings in case any stockholder dissents from merger.....	365
Section 7048. Capital stock, amount of.....	502
Section 7054. Copy of incorporation filed with Superintendent of Insurance; five thousand dollars payment of cash subscriptions required.....	502
Section 7057. Mode of incorporation without capital stock.....	501
Section 7245. Claims presented within six years, or barred thereafter.....	34
Section 7417. Allowance to wife pending suit.....	52
Section 7542. Legal services.....	1036
Section 7543. Articles 1 and 2 of Chapter not applicable to certain employments.....	1036
Section 7547. Presumption as to acceptance of provisions of Article 2, amended by Act No. 29, 1936 Acts.....	1044
Section 7550. Settlements between parties.....	1037

CODE OF 1923 AMENDED—Continued

Section 7555. Remarriage of widows; compensation to children.....	1037
Section 7563. Limitation on compensation, amended by Act. No. 29, 1936 Acts.....	1045
Section 7566. Waiting Period.....	1038
Section 7567. Medical, surgical and hospital service, amended by Act No. 29, 1936 Acts.....	1045
Section 7573. Payment in lump sum.....	1038
Section 7575. Employer may pay award to trustee and be dis- charged.....	225
Section 7584. Employer given right to insure risks; self-insurer; conditions.....	1038
Section 7587. Liability of party other than employer.....	1042
Section 7589. Department of Industrial Relations.....	1043
Section 7590. Director prepares forms and literature for distribu- tion.....	1043
Section 7591. Employer keeps records of injuries; report of.....	1043
Section 7592. Report of settlements.....	1043
Section 7593. Clerk of circuit court reports to director.....	1044
Section 7594. Supplementary report.....	1044
Section 7595. Report of commissioner to Legislature.....	1048
Section 7596. Words and phrases defined.....	1047
Section 7887. Exemption of wages of employees.....	396
Section 8324. Clerical assistants, salaries.....	818
Section 8329. Superintendent of Insurance is Compensation Com- missioner.....	1048
Section 8334. Examination domestic companies.....	819
Section 8335. Examination of foreign insurance companies.....	819
Section 8336. Actuary to assist in examination of domestic com- pany; compensation of.....	819
Section 8337. Examination of foreign companies, expenses of.....	820
Section 8347. Method of ascertaining status of foreign and domes- tic life companies.....	821
Section 8484. Solvency of Society; how determined.....	816
Section 8496. Quo Warranto Proceedings against society.....	816
Section 8498. Authority of Attorney General and policyholders to institute proceedings.....	936
Section 8692. When kept together, jury provided with lodging and refreshments, providing for bailiffs and deputy sheriffs.....	92
Section 8970. Presentation of claim against estate of decedent sus- pends statute until notice given to sue.....	806
Section 8971. Personal representative may require suit brought on disputed claim within six months.....	806
Section 9426. Service on designated agent of foreign corporations; proof of agency.....	976
Section 9427. Service of process on corporation not qualified to do business in the State.....	977
Section 10129. Papers to be recorded on filing.....	514
Section 10314. Salary marshal and librarian Supreme Court.....	557
Section 10332. Compensation of Reporter.....	558
Section 10334. Receiving and disposition records by reporter.....	559
Section 10335. Contract for printing and publishing reports pro- vided for.....	559
Section 10450. Causes of removal of trustee on petition to the cir- cuit court in equity.....	478
Section 10451. New trustee appointed by the court in such case.....	479

CODE OF 1923 REPEALED

Library laws in conflict with act establishing public library service division in the Department of Archives & History.....	299
Section 1185. Compensation of board, amended by act App. Sept. 2, 1927.....	700
Section 1486. Grant of swamp and overflowed lands.....	953
Section 1487. Purchasers may obtain patent.....	953
Section 1488. Alleged claims may be established and title secured.....	953
Section 5085. Wells to be shut in to prevent escape of gas; exception.....	1019
Section 5086. Leakage, etc., not permitted.....	1019
Section 5087. Flambeau lights prohibited.....	1019
Section 5088. Refuse not to be run in streams.....	1019
Section 5089. Plugging of dry wells.....	1019
Section 5090. Unlawful to set fire to gas or oil.....	1019
Section 5091. Well to be encased.....	1019
Section 5092. Penalty for violation.....	1019
Section 5093. Acts treated as separate offense.....	1019
Section 5094. Failure to plug, owner of land or adjoining land may plug.....	1019
Section 5095. Cost and expenses of plugging paid by owner. lien for.....	1019
Section 5096. Enforcement of lien.....	1019
Section 5097. Appointment of person to inspect, and amount appropriated.....	1019
Section 7602. Board of Mediation established; members, term of office, etc.....	253
Section 7603. Duties of board.....	253
Section 7604. Meetings of board; decision of board.....	253
Section 7605. Power to arbitrate.....	253
Section 7606. Decision; how made and filed.....	253
Section 7607. Reports to legislature.....	253
Section 7612. Compensation of state board.....	253

COLBERT COUNTY

Court of county commissioners authorized to divide county into drainage districts for control of malaria, special tax on taxable property.....	483
--	-----

COMMERCE, DEPARTMENT

See Department of Commerce.
See Savings and Loan Act

COMMISSION

Agreement of State.....	941
Bonds, validity.....	941, 945
Contracts for construction or reconstruction bridges.....	941
Covenants in resolutions.....	942
Creation and organization to construct highway bridges, approaches and appurtenances, act amended.....	936
Definitions.....	939
Incorporated to maintain and operate highway bridges, approaches and appurtenances, tolls charged, bonds issued, act amended.....	936
Membership.....	939
Policing of bridges.....	946
Powers of commission.....	940
Power to enter on land, water and premises to make survey.....	940

INDEX GENERAL ACTS OF REGULAR SESSION

1149

COMMISSION—Continued	
Publication of notice of resolution for issuance bonds.....	946
Ratification change of name from Highway Bridge Corporation, Inc. to Alabama Bridge Commission (an agency of the State of Alabama).....	948
See Code Commission	
Tolls	941
COMMISSIONS	
United States officers or agents subject to income tax of state.....	94
COMMISSIONER OF AGRICULTURE & INDUSTRIES	
Member advisory board of Conservation of the Department of Conservation	259
Shall make regulations relating to control of tuberculosis, para- tuberculosis and Bang's disease.....	201
COMMISSIONER OF REVENUE	
Corporation formed to assist county and city boards education to pay teachers salaries.....	811
Ex-officio Land Commissioner.....	3
Names for membership on County Board of Equalization submitted to	178-9, 829
See County Board of Equalization	
See Department of Revenue, State	
COMMISSIONERS, BOARD OF	
Act creating in cities not within influence or operation valid legis- lative enactment authorizing adoption commission form of gov- ernment, App. Apr. 8, 1911, relating to powers and duties com- missions	441
Act creating in cities not within influence or operation any other valid legislative enactment authorizing adoption commission form of government, App. Apr. 8, 1911, relating to salaries.....	440
Act creating in cities not within influence or operation valid legis- lative enactment authorizing adoption commission form of gov- ernment App. Apr. 8, 1911, relating to vacancies, election.....	481
Election recorder, cities 15,000 to 50,000 population.....	55
May elect recorder in cities operating under commission form of government	118
See Courts of County Commissioners	
COMMISSION FORM OF GOVERNMENT	
Act creating in cities and towns not within influence or operation valid legislative enactment, App. Apr. 8, 1911, amended, relat- ing to powers and duties commissioners.....	441
Act creating in cities and towns not within influence or operation valid legislative enactment, App. Apr. 8, 1911, relating to va- cancies, election, act amended.....	481
Board of commissioners may elect recorder when operating under Class "D" cities counties 24,000 to 40,000 population, and 22,000 to 60,000 population.....	46, 388
Creation in cities and towns not within influence or operation any other valid legislative enactment, App. Apr. 8, 1911, amended Sept. 28, 1915, relating to election of officer.....	408
Creation in cities and towns not within influence or operation any other valid legislative enactment, App. Apr. 8, 1911, relating to salary, act amended	440

COMMISSION FORM OF GOVERNMENT—Continued

Election chairman and associate commissioners.....	47, 50, 390, 393
Mayor shall become one of commissioners, election of commissioners, Act App. Apr. 8, 1911, providing, act amended.....	408
Period of time within which police and fire departments may reorganize under civil service regulations, cities 20,000 to 50,000 population.....	44
See Class "D" cities	
Terms of offices of chairman and associate commissioners, salaries.....	47, 50, 390, 393, 394

COMMISSION FORM OF GOVERNMENT, CITIES 40,000 TO 67,000 POPULATION

Abolish police commissioners, aldermen, and other officials.....	835
Benefits not subject to garnishment	
Benefits shall not be assigned	
Board of Commissioners.....	833
Change in classification or reclassification cities.....	833, 861
Creation and maintenance	
Employees, selection.....	838, 855, 856
Grants, franchises, leases.....	839
Improper conduct in elections	
Management and control public schools	
Pension system created, to whom applicable.....	859
Policemen and firemen, retirement.....	855, 856
Powers, duties and compensation.....	859
Public meetings boards of commissioners.....	838
Register of retired employees.....	860
Resolutions board of commissioners.....	839, 844
Retirement employees.....	860
Terms of office commissioners, election.....	834, 845, 855-6
Time, manner and payment benefits	
See Class "C" cities	
To regulate selection commissioners.....	833, 842

COMMITTEE

See Joint Committee

COMMODITIES

See Fair Trade Act

COMMON CARRIERS

See Alabama Motor Carrier Act of 1939

COMPENSATION

See Workmen's Compensation

COMPTROLLER, STATE

Directed to transfer out of surplus of income tax to property tax relief fund amount necessary for replacement of revenues lost by exemption of homesteads from ad valorem taxes.....	421
Division of Control and Accounts.....	155
Division of Departmental and County Audits abolished, duties transferred to Department of Finance.....	150
Duties.....	155
May become part of public corporation.....	39-44

INDEX GENERAL ACTS OF REGULAR SESSION 1151

COMPTROLLER, STATE—Continued	
Oath	161
Office abolished	151
Salary	33, 139
See Alabama State Highway Corporation	
Shall certify to Superintendent of Education estimated income available to meet appropriations for public elementary and high schools	611
CONDITIONAL SALES	
Contracts for, of personal property, when void	1006
Contracts recorded	1006
Persons defacing trade marks or identifying marks when encumbered with mortgage, conditional sale contract, penalty	1061
CONFEDERATE MUSEUM AT RICHMOND	
Appropriation	418
CONFEDERATE REUNION	
Appropriation	418
CONFEDERATE SOLDIERS HOME AT MOUNTAIN CREEK	
Appropriation	419
CONFEDERATE SOLDIERS, SAILORS AND WIDOWS	
Pensions, amount	398
Pensions, payable monthly	685
Restoration of name to pension roll	686
When dropped from pension roll	686
CONFEDERATE VETERANS AND WIDOWS	
Home	226
CONSERVATION BOARD	
Abolished	256
CONSERVATION, DEPARTMENT OF	
Act conserving, protecting and developing oysters on bottom within boundaries of State, etc. App. Mar. 1, 1937, amending Sections 17, 28, 31, 39 and 41, relating to licenses	891
Adjustment of claims	952
Agreements with Federal Government	878
Authorized to enter into agreements to establish Wildlife Management Areas	1061
Authorized to establish Wildlife Management Areas	1061
Authorized to have management and supervision public lands	949
Authorized to have management and supervision school lands	949
Authorized to sell timber or minerals from school lands, or lease lands	949
Claim of title of lands	949
Contracts	878
Counties authorized to assess and levy special annual tax for forest protection fund	884
Counties, cities and towns authorized to donate land and monies for state park system	879
Disposition of revenues from sale or lease of lands	950
Duties	877
Exchange and sale of school lands	949

CONSERVATION, DEPARTMENT OF—Continued

Highway Department authorized to construct roads from highway to land included in park system.....	879
License to catch shrimp.....	889, 891
May acquire land for state park system.....	878
Powers	878
Powers of peace officers of employees.....	995
Preservation parks.....	877
Public service privileges and conveyances.....	878
Recreational activities.....	879
School lands may be sold or exchanged for other lands.....	950
See Wildlife Management Areas.....	
Statements to State Superintendent of Education.....	950
State park funds.....	878
Supervision of practice of forestry.....	949-50
Supervision of swamp and overflowed lands, revenue from sale.....	949-52
See Department of Conservation Act of 1939.....	
Weekly reports of persons catching, selling or purchasing shrimp and oysters, to.....	889, 891
Written records of sales of timber available to agent of.....	994

CONSERVATION OF GAME, FISH AND SEAFOODS, DEPARTMENT

Abolished	256
Consent of State to cooperate with United States Department of Agriculture in restoration of wildlife in compliance with Pittman-Robertson Act, restoration game, fish, forests, parks.....	803
Division Game, Fish and Seafoods established in Department of Conservation.....	260
Employees peace officers in enforcement fire and forest laws.....	713
Licenses to catch shrimp.....	889
See Department of Conservation Act of 1939.....	
Weekly reports persons catching, selling of purchasing shrimp	889

CONSOLIDATION

Act providing for consolidation, administration and control public school systems counties 75,000 to 100,000 population, establishing board of education, repealed.....	425
Administration and control public school system, establishing board of education, act repealed.....	425
Administration city school systems with county school systems, educational authority, effectiveness.....	756-757
Governing body may dissolve consolidation and administration of county and city schools located within corporate limits of certain cities.....	557
See Merger.....	

CONSTITUTIONAL AMENDMENTS, PROPOSED

Authorizing issuance bonds to pay outstanding bonds Alabama Bridge Commission (an agency of the State of Alabama) which were issued to finance the construction of a bridge across Tennessee River between Lauderdale and Colbert Counties.....	574
Authorizing issuance bonds to refund bonds of Alabama State Bridge Corporation and Alabama Bridge Authority, Inc., authorizing Governor to negotiate temporary loans, in anticipation of collection of taxes, and prohibiting incurring of obligations by agencies of State.....	576

CONSTITUTIONAL AMENDMENTS, PROPOSED—Continued	
Authorizing Legislature to fix, alter and regulate fees, commissions, allowances and salary including method and basis of compensation to be charged or allowed the sheriff of Mobile County, validation of acts.....	581
Court of county commissioners of Colbert County authorized to divide said county into drainage districts for control of malaria	483
Legislature may fix, regulate and alter costs and charge of courts, fees, commissions, allowances and salaries to be charged or received by any county officer of Morgan County, including method and basis of compensation, salary provided and fees, costs, and allowances to be paid into county treasury, validation of acts of 1939.....	386, 387
Legislature may fix, regulate and alter fees, commissions, allowances and salaries, and method or basis of compensation, to be charged or received by tax assessors, tax collectors, probate judges, circuit clerks, sheriffs and registers of equity courts, right to place on salary, in the counties of Etowah and Cherokee	1034
Municipal corporations ad valorem tax rate limited, may levy and collect additional taxes.....	886
Salaries certain county officers Dallas County, collection charges of court, fees, commission, allowances, percentages, salaries, etc.....	896
CONTINGENT FUND	
Governor authorized to make expenditures from fund for mansion, operation, official entertainment and transportation.....	31
CONTRACT	
Sales of commodities bearing trade mark.....	36
See Fair Trade Act	
CONTRACT CARRIERS	
See Alabama Motor Carrier Act of 1939	
CONTROL AND ACCOUNTS, DIVISION	
Established	155
Salaries	161
CONVEYANCES	
See Conditional Sales	
CONVICTS, COUNTY	
Governing bodies counties may hire state convicts to work on public roads and bridges, public work.....	534
CONVICTS, STATE	
Governing bodies counties may hire state convicts to work on public roads and bridges, public work.....	534
COOPERATIVES	
Alabama Securities Act shall not apply.....	385
Articles of incorporation submitted to Secretary of State.....	373
By-laws	374-375
Board of trustees.....	375
Change location principal office.....	376
Consolidation	377
Corporations already organized may be converted into a cooperative	380
Deemed to be electric membership cooperatives within meaning of Public Works Board Act, 1935, Acts.....	385

COOPERATIVES—Continued

Corporations organized under laws of another state allowed to carry on proper activities upon compliance with regulations applicable to foreign corporations transacting business in Alabama	385
Desiring to transact business in another state	372
Dissolution	381
Effect of consolidation or merger	379
Electric energy, manufacture and disposal	371
Exempt from jurisdiction and control of public Service Commission	385
Lien upon property	384
Limitations of cooperatives	384
May amend articles of incorporation	376
Merger	378
Name	373
Notice of meetings	385
Officers	376
Organization	373
Private property of members exempt from execution for debts	384
Propositions embodied in petition	381
Purpose of organization, powers	371
Quorum	374
Revenues Distributed	384
Secretary of State shall transmit copy of articles of incorporation to Judge of Probate of county of business	383
See Electric Cooperatives Act	
Territory divided into voting districts	376
Who may become members	374

CORONERS

State Toxicologist to cooperate with	584
--	-----

CORONERS, COUNTIES 75,000 TO 100,000 POPULATION

Act App. Mar. 9, 1931, prescribing qualifications, amended June 6, 1935, as to compensation, repealed	112
Act prescribing qualifications, duties, allowance, repealed	111

CORPORATION

Alabama Public Schools Corporation	810
Amount of capital stock necessary for organization	502
Application for permit to sell liquified petroleum gases and for sale and installation equipment, bond	970
Application to Secretary of State to form corporation to assist county and city boards of education, known as Alabama Public Schools Corporation	810
Appointment of receiver for protection of trust fund	936
Borrowing money	714
Copy articles of incorporation mutual aid, benefit and industrial corporations filed with superintendent of insurance	502
Corporations shall not transact business savings and loan association	658
Dissolution fraternal benefit societies	936
Dividends deemed income	904
Examination banks	803
Exemptions	516
Holding fairs, license	516
Income on obligations of United States or agencies shall be included in gross income in determining income taxes	93

CORPORATION—Continued

Incorporation association to promote thrift and financing homes.....	616
Merger, consolidation, reorganization.....	904
Merger of two or more corporations, secretary of each shall notify by registered mail each of stockholders not present of decision	366
Money borrowed in anticipation proceeds minimum program fund, appropriation	811
Mutual aid, benefit and industrial company or association, without capital stock.....	501
Portion of excise tax on gasoline used for public corporation to construct public roads and bridges, act amended.....	2, 3
Powers, assisting county and city boards of education to pay teach- ers salaries.....	810
Powers water works board.....	714
Proceeds minimum program fund pledged by corporation to assist local boards of education to pay teachers salaries.....	811
Railroad companies, mining, manufacturing and quarrying com- panies may contract, purchase or otherwise acquire steamboats, barges, ships for transportation freight and passengers.....	1019
See Merger	
See Savings and Loan Act	
See Uniform Principal and Income Tax	
Subscription to shares or other securities on obligations.....	904
Remission of taxes.....	529
To assist county and city boards of education to pay teachers salaries, members known as Alabama Schools Corporation.....	810

CORPORATION, DOMESTIC

Income computed, deductions	521
-----------------------------------	-----

CORPORATIONS, FOREIGN

Corporations organized under laws of another state allowed to carry on activities with reference to electric cooperatives.....	385
Designation of statutory agents.....	976
Failure to designate secretary of state as attorney.....	976
Failure to qualify for transaction of business.....	976
Income	521
Not qualified in State service may be had on agent or servant making contracts	976
Secretary of State shall transmit service by registered mail.....	976
Statutory agent designation revoked, secretary of state designated....	976
Withdrawing from transaction of business, shall continue to keep agent on whom service of process may be made.....	976

CORPORATION, PUBLIC

• Provided, members.....	39-44
See Alabama State Highway Corporation.....	39-44

CORRECTIONS AND INSTITUTIONS, STATE DEPARTMENT

Abolition of certain agencies, transfer of their functions to.....	120
Application of merit system, operation.....	124
Appropriations	123, 124, 176, 416
Chiefs of division.....	123
Creation	119
Definitions	118
Director, bond.....	121, 122
Divisions may be created	123
Duties	120

CORRECTIONS AND INSTITUTIONS, STATE

DEPARTMENT—Continued

Employees	123
Functions and duties.....	119
Limitations on transfer of functions and duties.....	120
Powers director and how exercised; restrictions thereon.....	122
Records of prisoners.....	428
Rules and regulations.....	122
Seal.....	119
See Pardons and Paroles, State Board	
Shall cooperate with boards, agencies and institutions.....	120
Transfer of moneys.....	123
Transfer of records, equipment, etc.....	123

COSTS AND FEES

Witness fees.....	34, 35
-------------------	--------

COTTON

Insurance at public warehouse.....	594
Joint resolution for relief of farmers.....	64-7, 142
Joint resolution requesting congress to restore to former economic importance.....	64-7, 142

COTTON COMMISSIONER

Joint resolution to create office.....	64-7, 144
--	-----------

COUNSEL

Appointed by circuit judge for defendants unable to employ.....	463
Appointed by circuit judge from alphabetical list of names of attorneys	463
Reinstatement on list.....	463
Withdrawal of name from alphabetical list to represent defendants unable to employ.....	463

COUNTIES

Acquisition lands, purpose.....	506
Alabama State Highway Corporation to aid in financing interest bearing warrants.....	39-44
Amount sales tax collection credited to, how used.....	28-29
Appointment board of trustees for acquisition, maintenance lands and property.....	507
Appropriation from net proceeds liquor stores, how distributed.....	526
Assistant solicitors judicial circuits one county with more than two and less than nine circuit judges, appointed by circuit solicitor, duties, salary, term.....	423
Assistant solicitor judicial circuits one county with more than two and less than nine circuit judges, act repealed.....	422
Authorized to donate, convey and grant land and monies for state park system.....	879
Authorized to assess and levy special annual tax against forested acreage of county.....	884
Average index financial ability counties to support minimum school program	480
Bonds issued to finance public works projects validated.....	396
Conditional sales contracts recorded in office of judge of probate....	1006
Confinement of dogs.....	332
Construction armories, act amended.....	772
Conveyance of lands to Armory Commission for armories.....	772
Courts of county commissioners authorized to furnish public buildings with office supplies, equipment.....	1028

COUNTIES—Continued

Default in payment principal or interest bonds.....	717
Engaged in business of furnishing electric service.....	405
Governing body may dissolve consolidation and administration of county and city schools located within corporate limits certain cities	557
Housing authorities, counties authorized to sell, convey or lease property to housing authorities for purposes of aiding and cooperating in housing projects.....	983
Impounding dogs.....	332
Investment of funds in notes or bonds secured by mortgage or trust deed, insured by Federal Housing Administrator.....	227
Judge of probate shall have power to try inquisitions of lunacy without jury, exception	999
Jury commission established.....	86-92
Leave of absence employees National Guard, see Military Code amended	
Livestock running at large.....	487-496
May issue bonds for refunding installments due on outstanding serial bonds.....	290
May make contracts for acquisition lands.....	507
May settle, adjust and refund bonded indebtedness, act amended...	290
Office space, telephone service, stationery, stamps and equipment provided circuit solicitors, deputy circuit solicitors and assistant deputy circuit solicitors	1020
Payment and distribution excise tax, financial institutions.....	517
Probate courts general equity jurisdiction concurrent with circuit courts, in equity, in administration of estates, see Judges of Probate	1000
Public Welfare Department to deliver pension warrants.....	398
Regulating school warrants, finances and elections.....	334
See Alabama State Highway Corporation	
See County Board of Equalization	
See Electric Service	
See Financial Institutions	
See Local Option Stock Law	
See Old Age Assistance	
See School Warrants	
State Board of Education shall calculate index of financial ability to support minimum school program.....	480
State Board of Education shall calculate per cent of total assessed valuation state and	480
State Board of Education shall determine amount needed for each county	480
State Board of Education shall determine total local funds available to counties.....	480
State Board of Education shall determine total local funds available to provide minimum school program.....	480
State, county and city boards of education authorized to cooperate with federal government in removal of illiteracy.....	721
Trust fund created by public donations for acquisition lands.....	507

COUNTIES 17,775 to 18,425 POPULATION

Submission referendum provided, election superintendent of education, county solicitor and county treasurer.....	955
--	-----

COUNTIES 25,000 OR LESS POPULATION

Salary, members jury commission.....	87
--------------------------------------	----

COUNTIES 25,000 TO 50,000 POPULATION	
Salary members jury commission.....	87
COUNTIES 34,000 TO 35,000 POPULATION	
Additional deputy sheriff allowed, compensation, bond.....	682
COUNTIES 41,000 OR MORE POPULATION	
Act providing that board of finance and control authorized to employ stenographers, clerks and assistants, App. Feb. 24, 1937, repealed.....	33
COUNTIES 50,000 OR MORE POPULATION	
Regular term commissioners court.....	932
COUNTIES 50,000 TO 75,000 POPULATION	
Salary members jury commission.....	87
COUNTIES MORE THAN 55,000 POPULATION	
Consolidation administration city and county school systems, additional	757
Election county board of education, consolidation schools.....	757
COUNTIES LESS THAN 60,000 POPULATION	
Salary chief clerk to circuit solicitor.....	972
COUNTIES 60,000 POPULATION OR LESS	
License vending machines.....	520
COUNTIES 60,000 POPULATION OR MORE	
Salary chief clerk to circuit solicitor.....	972
COUNTIES 60,001 TO 125,000 POPULATION	
Licensing, vending machines.....	520
COUNTIES 75,000 POPULATION OR LESS	
Clerk jury commission, salary, oath.....	88
COUNTIES LESS THAN 75,000 POPULATION	
Exemption, state, county or district agricultural fairs operating without concessions exempt from state and county licenses or privilege taxes.....	515
License street fairs, carnivals.....	516
COUNTIES 75,000 POPULATION OR MORE	
Salary members jury commission.....	87
COUNTIES 75,000 TO 100,000 POPULATION	
Act App. Mar. 9, 1931, prescribing qualifications amended June 6, 1935, as to compensation, repealed.....	112
Act authorizing and ordering election for levying excise tax for maintenance and operation public schools, approved June 30th, 1931 repealed.....	112
Acts authorizing boards of revenue counties certain population to expend county funds, approved February 12, 1931, amended July 22, 1931, repealed.....	117
Act creating office of special officer, approved March 2nd, 1931, repealed.....	117
Act establishing Board of Jury Supervisors, passed over Governor's veto June 18, 1931, repealed.....	166
Act establishing jury boards, App. Mar. 9, 1931, repealed.....	165

INDEX GENERAL ACTS OF REGULAR SESSION

1159

COUNTIES 75,000 TO 100,000 POPULATION—Continued

Act fixing compensation salaries and allowances sheriffs, deputies and assistants, repealed.....	116
Act fixing compensation tax assessors and collectors and assistants, App. Mar. 5, 1931, repealed.....	115
Act fixing salaries clerical help and members board of revenue and court of county commissioners, App. Feb. 12, 1931, repealed.....	113
Act fixing salary judge of probate, assistance, election clerk, App. Apr. 2, 1936, repealed.....	141
Act making persons liable to work on public roads, App. July 17, 1931, repealed.....	174
Act providing for consolidation of administration and control of public school system, establishing board of education, act repealed.....	425
Act prescribing qualifications coroners, App. March. 9, 1931, repealed.....	111
Act regulating excusing jurors in circuit courts, App. Oct. 25, 1932, repealed.....	62
Act relating to dependent, neglected or delinquent children, establishing Juvenile and Domestic Relations Court, App. Feb. 26, 1931, amended Jan. 31, 1935, amended Feb. 23, 1937, repealed.....	62
Act repealed requiring board of education to provide pension or retiring allowance for teachers.....	477

COUNTIES 75,000 TO 150,000 POPULATION

Exemption, state, county or district agricultural fairs operating without concessions exempt from state and county licenses or privilege taxes.....	515
License street fairs, carnivals.....	516

COUNTIES 75,000 TO 200,000 POPULATION

Clerk, salary.....	88
--------------------	----

COUNTIES 92,500 TO 150,000 POPULATION

Act providing for employment discharge and compensation road patrolmen repealed.....	466
--	-----

COUNTIES 98,000 OR MORE POPULATION

Probation and suspension execution of sentence juvenile and domestic relation courts.....	934
---	-----

COUNTIES 100,000 to 175,000 POPULATION

Courts of county commissioners authorized to furnish public buildings with office supplies, equipment.....	1028
--	------

COUNTIES 100,000 TO 300,000 POPULATION

Act providing for matron county jail repealed.....	422
Matron employed.....	681
Membership in any national, state or local committee shall not disqualify holding position under civil service system.....	863

COUNTIES 110,000 POPULATION OR MORE

Act providing for a more economical, convenient and uniform system of assessing and collection taxes on, including enforcement of tax liens, amended relating to notice of delinquency.....	264
System of assessing and collecting tax on real estate and enforcement tax lien.....	831

COUNTIES 118,000 AND LESS THAN 300,000 POPULATION

Expenses clerk jury commission.....	90
-------------------------------------	----

COUNTIES 125,000 AND OVER POPULATION

License, vending machines..... 520

COUNTIES OVER 150,000 POPULATION

Exemption, state, county or district agricultural fairs operating
without concessions exempt from state and county licenses or
privilege taxes..... 515
License street fairs, carnivals..... 516

COUNTIES 200,000 OR MORE POPULATION

Boards Equalization to provide for inventory and appraisal of
property, exception..... 524, 827
Civil service system..... 310-28, 542
Clerical assistance, jury commission..... 88
Duty courts county commissioners to supply boards of equalization
with office space, equipment..... 827
Permit required to erect, construct, enlarge, move or demolish
buildings or structures 997
See Buildings
See County Engineer

COUNTIES MORE THAN 200,000 POPULATION

Act providing for appointment or election of bailiff to attend ses-
sions grand jury of circuit court, App. April 19, 1933, repealed 31

COUNTIES 300,000 OR MORE POPULATION

Act regulating guardian ad litem fees, commissions, allowances to
be charged as court costs, etc. repealed..... 992
Attachment of liens in same manner as in circuit court..... 683
Judge of probate shall have power to try inquisitions of lunacy
without jury, exception..... 999
Judgments subject to registration as in circuit court..... 683
Jury boxes..... 90
Processes inferior courts shall run to any lawful officer of state and
be served by sheriff..... 683
Retirement system..... 762

COUNTIES 400,000 POPULATION OR MORE

Court costs paid by defendant, when recovered, exception..... 420-21
Documents may be entered and recorded by photograph or photo-
stat machines..... 509-12-14
Election judge inferior courts..... 817
Motion filed by defendant to retax or eradicate from bill of costs
alleged erroneous items..... 420-21
Probate courts general equity jurisdiction concurrent with circuit
courts, in equity, in administration of estates, see Judges of
Probate..... 1000
When liable to refund any court costs paid by any defendant in
criminal prosecution..... 420-21

COUNTY BOARD OF EQUALIZATION

Adjustments..... 184, 187
Appeals from action of board..... 187
Appropriation 412
Boards of review abolished..... 189
Chairman 183
Commission of Revenue shall appoint members, approval of Gov-
ernor..... 178-9

COUNTY BOARD OF EQUALIZATION—Continued

Compensation, how paid	182-3, 827
Counties where no incorporated municipality, governing body nominate	178-9, 827
County Commission to provide for payment of costs and expenses of inventories	524, 827
Created in each county	178
Duties	183-85
Employees selected for inventory and appraisal of property	525, 827
Failure to perform duties	189
Forest Protection Fund	884
Homestead exemptions	831
Increased assessment	187
Inspection property and designation as Forest Protection Area	884
Inventory boards abolished, records transferred	524
Judgment on appeals	187
May fix time and place of hearing protests	831
Meetings	183-5
Members acquiring permanent civil service status	827, 829
Members appointed under provisions civil service system	827, 829
Members shall comply with merit system law in counties where applicable	178, 827, 829
Members shall hold no other office of profit	180
Names for, submitted by governing body of counties and municipali- ties to Commissioner of Revenue	178-9, 827, 829
Oath members	180
Protests, hearing	184, 186, 187
Publication of notice that assessments have been fixed	186
Refund	186
Representatives of State Department of Revenue may be sent to counties to act in advisory capacity	183
Rules and regulations	183
Secretary shall advise taxpayer to make return	186
Sections of act providing for the general revenue of the State, App. July 10, 1935, pertaining to boards of review, repealed	189
Tax Assessor of county shall serve as Secretary	180
Tax Assessor shall deliver assessments	184, 187
Tax Assessor shall enter the corrected values on assessment list	187
Terms	178, 181
Time extended within which tax assessor shall deliver copy assess- ments	831
To provide for inventory and appraisal property, certain counties	524
Vacancies, how filled	180
Value in property	184

COUNTY COMMISSIONERS, COURTS OF

See Courts of County Commissioners

COUNTY COURTS

Misdemeanors cognizable in justice of the peace courts and courts in lieu thereof, collection solicitor's fee prohibited	229
---	-----

COUNTY ELECTION

Held for the purpose of authorizing a special tax for school pur- poses, when notice not properly published, ratified	177
--	-----

COUNTY ENGINEER	
Application for permits to construct buildings.....	998
Appointment, salary, qualifications.....	869
Duties	998
Duties under supervision county governing body.....	869
Permit required to erect, construct, enlarge, move or demolish buildings or structures	998
Permits denied, appeals.....	998
State participation in salary.....	869
COUNTY FUNDS, CUSTODIAN	
Witness fees, when paid.....	34
COUNTY HEALTH OFFICER	
Treatment of venereal diseases.....	486
COUNTY OFFICERS	
Proposed constitutional amendment providing that Legislature may fix, regulate and alter costs and charges of courts, fees, com- missions, allowances and salaries of county officers, including method and basis of compensation, salary provided; fees, costs and allowances to be paid into county treasury.....	387
COUNTY SCHOOL SYSTEM	
Appropriation for extension of school terms, apportionment.....	360
Budget prepared	610
See Budget System	
COUNTY SOLICITOR	
Submission referendum certain counties, election.....	955
COUNTY TREASURER	
See Treasurer, County	
COURT COSTS	
Act regulating guardian ad litem fees, commissions, allowances to be charged as court costs, etc. repealed.....	992
Counties 400,000 population or more, not liable to refund when paid by any defendant in criminal prosecution, exception.....	420-21
Counties 400,000 population or more, paid by defendant, when recovered	420-21
Defendant filing motion to retax or eradicate alleged erroneous items	420-21
COURT HOUSES	
Courts of county commissioners authorized to furnish public build- ings with office supplies, equipment.....	1028
COURT OF APPEALS	
Appropriation	412
COURT OF APPEALS REPORTS	
Duties clerks.....	559
Printing and publishing.....	559
Salary clerk	582
COURT REPORTER	
Fourteenth Judicial Circuit, allowance, travelling.....	111

COURTS

Clerk shall certify names of persons empanelled to jury commission	91
Jurisdiction misdemeanors in violation truck laws	690
Production of book on trial of defendants	509-12
Recording indictments and documents by means of photograph or photostat machine	509-12
Recording indictments by clerk	509-12

COURTS MARTIAL

See Military Code amended

COURTS OF COUNTY COMMISSIONERS

Act fixing salary for clerical help and, certain counties, repealed	113
Affiliation of rural and county libraries	352
Appointment county engineer	869
Appointment deputy sheriff counties 34,000 to 35,000 population	682
Appointment member retirement system	766
Authorized to furnish public buildings with office supplies, equipment	1028
Colbert County, commissioners authorized to divide said county into drainage districts for control of malaria, constitutional amendment proposed	483
Gross load limit of trucks	688
Joint library service	352
May establish and maintain free public libraries	350
May hire state convicts to work on public roads and bridges, public work	534
Regular terms, code section amended	932
Remission of taxes to factories and plants	529
Salary and mileage, code section amended	1049
See County Board of Equalization	
See Old Age Assistance	
See County Engineer	
See Commissioners, Board of	
Shall appoint library board, membership	351
Shall submit names for County Boards of Equalization to Commissioner of Revenue	178-9, 828
To provide for payment of costs and expenses inventory, by boards of equalization, of property	524-828

COURTS OF RECORD

May suspend execution of sentence and place persons on probation	434
--	-----

CREDITS

Location property for purposes of death taxation	965
Property held in trust not deemed to be located in this state for purposes of death taxation, because of trustees being domiciled in this State	965
Reciprocal exemption from taxation	965
Taxable situs property for death taxation	965

CREDIT UNIONS

Amount paid out as dividends on withdrawable shares deducted from net income	56
Net income for excise tax, compilation	56

CREOLA LUMBER COMPANY

Confirming title to lands in Mobile County	808
--	-----

CRIME

Counsel appointed for defendants unable to employ.....	463
See Counsel	

CRIMINAL CASES

Witness fees paid in one case.....	35
------------------------------------	----

CRIPPLED CHILDREN

See Children

CROP IMPROVEMENT COMMITTEE, STATE

See State Crop Improvement Committee

CROPS

Securing of samples of lands by State Highway Department for construction highways, roads and bridges shall not interfere with growing crops.....	363
See State Crop Improvement Committee	

CUNNINGHAM, C. C.

Relief of	1060
-----------------	------

DALLAS COUNTY

Salary of county officers, proposed constitutional amendment	896
--	-----

DANIEL, JOHN W.

Relief	802
--------------	-----

DAPHNE NORMAL SCHOOL

Abolished	761
-----------------	-----

DEAF AND BLIND, ALABAMA INSTITUTE

Adult blind department established.....	680
Deputy superintendent to maintain register blind persons.....	680

DEALERS

Reciprocal agreements between Department of Agriculture and Industries and other states whereby inspection certificates or permits may be granted without payment of fee.....	1007
---	------

DEATH TAXATION

Location intangible personal property for purposes of.....	965
Property held in trust not deemed to be located in this state for purposes of death taxation, because of trustees being domiciled in this state.....	965
Reciprocal exemption from death taxation.....	965
Taxable situs for death taxation.....	965

DECREE

Execution, power of circuit court.....	167
--	-----

DEFENDANTS

Appeals	934
Arrest of defendants in other states.....	935
Arrests of probationer or parolee without warrant.....	934
Payment of fines.....	935
Probation and suspension of executions of sentences.....	933
Revocation	934
See Felony cases, indictment dispensed with.....	368
System regulated.....	933
Unable to employ counsel, circuit judge to appoint.....	463

DEFENSE

Joint resolution approving program of President and Congress of United States to build up defenses and preserve the peace of the Americas, urging continuation of program and pledging cooperation of people of Alabama.....	980
See Military Code amended	

DELICATESSEN STORES

Definition	482
Lawful to remain open on Sunday to sell delicatessen products, certain cities.....	482

DEPARTMENT OF COMMERCE

Actuaries Bureau of Insurance.....	818
Appropriation	413
Appropriations to departments transferred to.....	12, 295
Bureau of Banking, members.....	11, 295
Bureau of Building & Loan.....	11, 295
Bureau of Insurance.....	11, 294
Created	11-13, 294
Director appointed, salary.....	12, 295
Director shall approve contract and plan of business of employer....	1038
Duties	12, 295
Duties Banking Department, Banking Board and Superintendent of Banks transferred to Bureau of Banking of.....	12, 295
Duties Building and Loan Department, Building and Loan Board and the Building and Loan Commissioner transferred to Bureau of Building & Loan of.....	12, 295
Duties Bureau of Insurance, Superintendent of Insurance and Fire Marshal Ex-Officio transferred to Bureau of Insurance of.....	12, 295
Employees	13, 296
Employees Bureau of Insurance.....	819
Examination affairs fraternal benefit societies.....	816
Examiners Bureau of Insurance.....	818
Examination insurance companies, payment expenses.....	819
Insurance companies shall file classification of risks.....	1040
Monies collected covered into state treasury.....	505
Records, books, accounts transferred to.....	12, 296
See Workmen's Compensation Act	
Statement of actuarial and underwriting experience filed with.....	1041

DEPARTMENT OF CONSERVATION

See Conservation, Department of

DEPARTMENT OF CONSERVATION ACT OF 1939

Abolition of certain agencies; transfer of functions.....	256
Advisory Board, functions and duties.....	259-60
Application of merit system act.....	263
Appropriation	263
Beginning of operation of Department of Conservation.....	263
Bonds of Alabama Oyster Commission; repeal of authority to issue bonds.....	257
Clarke-McNary law reimbursement funds.....	815
Consolidation of funds.....	261, 814
Creation additional divisions in Department.....	261
Creation of department.....	255
Director, oath, bond, salary.....	257, 815

DEPARTMENT OF CONSERVATION ACT

OF 1939—Continued

Diversion of Contributions.....	815
Division of Forestry, State Forester.....	260
Division of Game, Fish and Seafoods, chief.....	260
Division of State parks, monuments and historical sites, chief.....	260
Employees	263
Forest protection fund.....	815, 884
Functions and duties.....	255
Heads of divisions, oaths, salaries, bonds, employees.....	261
Powers director, how exercised, restrictions.....	258
Rules and regulations.....	258
Seal	255
See Conservation, Department of	
Transfer of appropriations.....	261
Transfer of records, equipment, etc.....	262

DEPARTMENT OF FINANCE ACT OF 1939

Abolition of Department of Examiners of Accounts.....	150
Abolition of Division of Departmental and county audits in office of State Comptroller.....	150
Abolition office State Comptroller.....	151
Abolition of the Public Works Board of Alabama and transfer of its functions and duties to the Department of Finance.....	152
Abolition Sinking Fund Commission.....	151
Application of merit system act.....	162
Appointment agent to take charge revenues counties in default.....	717
Appropriations; transfer of certain appropriations.....	153, 163, 412
Beginning of operation of Department of Finance.....	163
Bond of director.....	146
Bonds and salaries of the chiefs of the divisions of the Department of Finance; bonds of certain other employees.....	161
Charge of revenues, monies, income of counties, municipalities, extent	717
Chief Division local finance.....	146, 717
Creation	145
Creation of Additional Division in the Department of Finance; assignment of functions and duties.....	161
Default in payment of principal or interest on bonds	717
Definitions	145
Director of Finance.....	145
Director shall present to office or department examined statement of cost of examination and audit.....	597
Division of Control and Accounts; the Comptroller.....	155
Division of Local Finance; Chief of the Division.....	160
Division of Purchases and Stores; the Purchasing Agent.....	157
Division of Service; the Chief of the Division.....	158
Division of the Budget; the Budget Officer.....	156
Employees of the Department of Finance.....	162
Exceptions	162
Finances of state and county.....	145
Functions and duties.....	146, 154, 717
Grants received from Federal Government.....	163
Inspection and production of books, records, accounts etc., exami- nation of witnesses.....	154
Mileage of witnesses.....	154, 155
Oath of office of director.....	146

DEPARTMENT OF FINANCE ACT OF 1939—Continued

Operation of act with reference to educational or eleemosynary institutions	162
Powers of Director of Finance and how exercised; restrictions thereon	153
Purchasing of property by educational or eleemosynary institutions	162
Readjustment, refinancing bonds in default	717
Repeal of Sections 1-9A of Budget and Financial Control Act	151
Rules and regulations, penalties for violations	154
Seal	145
See Finance, Department	
Transfer certain functions and duties State Board of Administration and president to Department of Finance	151
Transfer functions and duties State Comptroller to Department of Finance	151
Transfer of certain functions and duties of Governor and the Secretary to the Governor with respect to State property to the Department of Finance	152
Transfer of certain functions and duties of Secretary of State to Department of Finance	152
Transfer of certain functions and duties State Auditor to State Department of Finance	150
Transfer of certain functions and duties State Treasurer to Department of Finance	151
Transfer of functions and duties other state departments and agencies to Department of Finance	150
Transfer of powers, functions, duties sinking fund commission to Department of Finance	151
Transfer of records, equipment, etc. to the Department of Finance	153

DEPARTMENT OF INDUSTRIAL RELATIONS

See Industrial Relations Act of 1939
See Industrial Relations Department

DEPARTMENT OF LABOR

Salary	33, 139
--------------	---------

DEPARTMENT OF PUBLIC WELFARE, STATE

See Public Welfare, State Department

DEPARTMENT OF REVENUE, STATE

Commissioner of Revenue	1, 2
Created	1
Office legal counsel created	5
Salary	33, 139
See Revenue, State Department	

DEPARTMENT OF STATE DOCKS AND TERMINALS

Advisory board created, terms, compensation	7-9
Appropriation to pay principal on outstanding Harbor Improvement bonds	987
Bond of director	8
Chief, Executive Officer	7
Compensation employees	8
Created	7-9
Designated as agency through which State shall accomplish maintenance and operation of all improvements and facilities authorized by Act approved January 17, 1927, relating to creation of Docks Commission	7

DEPARTMENT OF STATE DOCKS AND

TERMINALS—Continued

Duties exercised by Director.....	7
Governor ex-officio chairman of advisory board.....	8
Salary director.....	7
State Docks Commission abolished.....	9
To supervise and manage, direct State Docks, Mobile Port Docks	7

DEPARTMENTS

Emergency	198
Fees, receipts and income paid into State Treasury.....	197

DEPENDENT CHILDREN

Act relating to neglected, delinquent and dependent children, certain counties, establishing juvenile and domestic relations court, repealed	62-4
Cause pending in Juvenile and Domestic Relations Court shall not abate	62-4
Cause pending in Juvenile and Domestic Relations Court transferred to created court.....	62-4

DEPOSITARIES

Application for designation.....	349
Deposit of bond or securities.....	349
Security for deposit of state funds.....	349
State funds.....	349

DIRECTOR OF STATE DOCKS & TERMINALS

Bond	8
Chief Executive Officer of Department of State Docks & Terminals	7
Salary	7
See Department of State Docks & Terminals	

DISEASES

Cattle reacting to tests, appropriation for paying indemnities to owners.....	200
Treatment provided.....	486

DISTRIBUTION OF CODE

By Secretary of State.....	1023-27
Provided	1023-27

DISTRIBUTION SYSTEM

Agency operating electric light plant or distribution system.....	405, 554
Agency shall notify owners of plant or system of intention to engage in business.....	405, 554
Hearing of proposal of sale of electric plant.....	406-7, 554
Right of appeal from order of Public Service Commission.....	407, 554
Sale by owners of electric plant.....	406-7, 554
Terms and conditions of sale of electric plant.....	406-7, 554

DIVIDENDS

Amount paid out deducted from net income of credit unions for excise tax provided by Revenue Act of 1935.....	56
---	----

DIVISION OF CONTROL AND ACCOUNTS

Established	155
Salaries	161

INDEX GENERAL ACTS OF REGULAR SESSION	1169
DIVISION OF DEPARTMENTAL AND COUNTY AUDITS	
Office abolished; duties transferred to Director of Finance.....	150
DIVORCE AND ALIMONY	
Allowance for support of wife pending suit, code section amended	52
DOCKS COMMISSION, STATE	
Salary	33, 139
DOGS	
Found in wildlife management areas, impoundment, destruction.....	1063
DOORKEEPER OF HOUSE AND SENATE	
Relieved of responsibility and liability for codes and other books placed on desks of members of House and Senate.....	1090
DRAFTS	
No notice affecting check upon which revocation, countermand or stop-payment order has been made at time of taking effect shall be deemed to continue for a period of more than six months thereafter	1006
No revocation, countermand or stop payment order shall remain in effect more than six months after service on bank unless renewed	1006
DRAINAGE DISTRICTS	
Constitutional amendment providing that court of county commissioners Colbert County authorized to divide county into drainage districts for control of malaria.....	483
DRILLING	
Notice to State Geologist.....	1011
DRIVERS' LICENSES	
Application to Judge of Probate.....	300
Cancellation	303
Certificate of examination.....	301
Duplicate	309
Examination for.....	301
Exceptions for issuance.....	303
Exemptions	303
Expiration	300
Misdemeanor	306, 307
Motor vehicles.....	300
Operators shall not drive motor vehicles while license cancelled, suspended or revoked.....	307
Renewals	300
Revocation of drivers' licenses.....	304
See Highway Patrol	
See Public Safety, Director	
Temporary instruction permit.....	302
To be kept in immediate possession.....	302
Unencumbered balance highway patrol fund transferred to general fund	503
EDUCATION	
Appropriation	399, 417
Joint resolution requesting Congress to support legislation to provide opportunities for children.....	131

EDUCATION—Continued

Licenses not imposed when boxing or wrestling matches held and proceeds for.....	704
See Board of Education, City	
See Board of Education, County	
See Board of Education, State	
See Class "C" Cities	
See Superintendent of Education	
See Teachers Retirement System.....	574
State, county and city boards of education authorized to cooperate with federal government in removal of illiteracy.....	721
EDUCATIONAL ASSOCIATION, ALABAMA EXECUTIVE SECRETARY	
Member Board of Control Teachers Retirement System.....	565
EDUCATION AND HIGHWAYS COMMITTEE	
Joint resolution creating.....	358
EDUCATION BOARD	
Management and control in Class "D" cities	46, 388
See Board of Education, City	
See Board of Education, County	
See Board of Education, State	
See Class "C" cities	
See Class "D" cities	
See State Board of Education	
EDUCATION, CITY SUPERINTENDENTS	
Shall not recommend budget for operation schools showing expenditures in excess income estimated to be available.....	611
EDUCATION, COUNTY SUPERINTENDENTS	
Cost of examination of records and accounts by Department of Finance or Division, charged against funds.....	597
Shall not recommend budget for operation of schools showing expenditures in excess of income estimated to be available.....	611
Submission referendum certain counties, election.....	955
EDUCATION, STATE DEPARTMENT	
Appropriation	417
Duties superintendent.....	585
EDUCATIONAL INSTITUTIONS	
See Department of Finance Act of 1939	
EDUCATIONAL SYSTEM	
Appropriations	399
ELECTION CLERK	
Act fixing salary, counties 75,000 to 100,000 population, repealed.....	141
ELECTIONS	
Act providing for voting machines amended to provide that emblems of political parties shall be shown on machines.....	989
Appropriation	413
Ballot numbers covered by seal.....	361
Consolidation administration city and county schools.....	757
Date first and second primaries	823

ELECTIONS—Continued

Date State executive committee shall meet for canvassing and tabulating votes.....	823
For voting special taxes for school purposes.....	343
Held for the purpose of authorizing a special tax for school purposes, when notice not properly published, ratified.....	177
Officers of primary.....	929
See School Warrants	
See Voting Machines	

ELECTIONS, Municipal

Candidates and offices designated by number.....	1009
Candidates not receiving majority, second election held.....	1008
Candidates receiving majority, certificate of election shall issue.....	1008
Canvassing returns.....	1008
Declination to enter second primary, other candidate declared elected.....	1009
See Elections	

ELECTIONS, SCHOOL TAX

See School Warrants

ELECTIVE COMPENSATION

Payment of award by employer to trustee.....	225
--	-----

ELECTRIC COOPERATIVE ACT

Acquisition electric facilities, devoted to public use.....	371
Articles of incorporation of cooperatives.....	373
Change location principal office.....	376
Consolidation.....	377
Cooperative desiring to transact business in another state.....	372
Cooperatives, power	
Corporations already organized may be converted into a cooperative.....	380
Dissolution.....	381
Effect of consolidation or merger.....	379
Electric energy, manufacture, disposal.....	371
Lien upon property.....	384
Limitations of cooperatives.....	384
Merger.....	378
Name of each cooperative, exception.....	372
Notice of meetings.....	385
Organization of cooperatives.....	373
Private property of members exempt from execution for debts.....	384
Propositions embodied in petition.....	381
Purposes of organization.....	371
Revenues distributed.....	383
Secretary of State shall transmit copy of articles of incorporation to Judge of Probate of county of business.....	383

ELECTRIC ENERGY

Act authorizing creation Rural Electrification Authority repealed..	438
---	-----

ELECTRIC LIGHT PLANT

May be acquired by agency.....	405-554
--------------------------------	---------

ELECTRIC SERVICE

Act authorizing creation Rural Electrification Authority repealed....	438
Agency operating electric light plant or distribution system.....	405, 554

ELECTRIC SERVICE—Continued

Agency shall notify owners of plant or system of intention to en-	
gage in business.....	405, 554
Hearing of proposal of sale of electric plant.....	406-7, 554
Right of appeal from order of Public Service Commission.....	407, 554
Sale by owners of electric plant.....	406-7, 554
Terms and conditions of sale of electric plant.....	406-7, 554

ELECTRIC UTILITY BOARDS

See Municipal Electric Utility Boards

ELECTRIFICATION AUTHORITY, RURAL .

Act authorizing creation repealed.....	438
--	-----

EMBLEMS

Shall be shown on voting machines, act amended.....	989
---	-----

EMPLOYEES

Campaign literature, unlawful to transport.....	1031
Governor authorized to remove and discharge state.....	4
Joint resolution viewing with disfavor effort to organize state	
employees	1004
Leaves of absence granted, to serve in armed forces of United	
States	1027
Pay plan regulated.....	870
Regulation in classified and unclassified service.....	870
Retirement system, certain counties.....	762
Subject to provisions Merit System.....	870, 872
Unlawful for officers or employees of state to use state property	
for promotion or advancement of interest of candidate for	
nomination or election to public office.....	1031

EMPLOYER AND EMPLOYEE

Applicability of Workmen's Compensation Act.....	1036
Award to trustee, discharge.....	225
Board of Mediation.....	252

EMPLOYMENT OFFICES

Establishment and maintenance.....	744
Unemployed register.....	744

EMPLOYMENT SERVICE

Director	249
Director Industrial Relations Department chief.....	769

EMPLOYMENT SERVICE, ALABAMA STATE

Appropriation	413
---------------------	-----

EMPLOYMENT, STATE

See Merit System Act

ENGINEERING

Appointment county engineer.....	869
----------------------------------	-----

ENTOMOLOGICAL WORK

Applications	867
Bond for engaging in.....	867
Defined	866
Examination and licenses.....	867
Examining Board created.....	867
License for practice.....	867

EQUALIZATION, COUNTY BOARD OF

See County Board of Equalization

ESTATES

Administrations	53-55
Administration of estates of persons of unsound mind removed from probate court to circuit court.....	168
Appeals	806
Claims against, commencement of suits suspended.....	806
Computing income tax beneficiary, distributive share included.....	880
Hearing of claims against.....	806
Judge of Probate, register of circuit court authorized to satisfy claims legally filed.....	109
Jurisdiction of partial or final settlement.....	109
Personal representative may give notice in writing that claim is dis- puted	806
Reduction bond pending final settlement.....	883
See Uniform Principal and Income Tax	
Taxation of costs of proceeding.....	806
Unproductive	907

ETOWAH COUNTY

Legislature may fix, regulate and alter fees, commissions, allow- ances and salaries, and method or basis of compensation, to be charged or received by tax assessors, tax collectors, probate judges, circuit clerks, sheriffs and registers of equity courts, right to place on salary, in the counties of Etowah and Chero- kee, proposed constitutional amendment	1034
--	------

EXAMINATION

Of records and accounts by Department of Finance or division of officer, department, corporation, costs charged against funds or revenues	597
Records and accounts municipalities, reimbursement.....	598

EXAMINERS OF ACCOUNTS, DEPARTMENT OF

Office abolished.....	150
Powers, functions and duties transferred to Director of Finance....	150
See Department of Finance Act of 1939	

EXAMINING BOARD

Examination persons engaged in professional work pertaining to entomology, pathology, horticulture, floriculture, tree surgery....	866
Members, expense.....	866

EXCISE TAX

Act authorizing and ordering election for levying tax on gasoline for maintenance and operation public schools certain counties, repealed	112
Amount paid out as dividends on withdrawable shares deducted from net income of credit unions.....	56
Financial institutions, revenue act 1935 amended.....	496
Motor fuels	958
One-twelfth, on gasoline, used for public corporation to construct public roads and bridges, Act amended.....	2, 3
On gasoline, distribution proceeds.....	792
On gasoline, issuance bonds authorized to pay or retire outstanding bonds of Alabama State Bridge Corporation and Alabama Bridge Authority, Inc.....	550

EXCISE TAX—Continued

On gasoline, issuance of bonds authorized to pay or retire outstanding bonds of Alabama Bridge Commission (an agency of the State of Alabama).....	535, 574
On gasoline, portion used for Alabama State Highway Corporation.....	41
On storage, use or consumption of tangible personal property.....	98
On storage, use or other consumption of any automotive vehicle.....	98
Payment and distribution, Revenue Act of 1935 amended.....	517
Penalty for failure to pay, motor fuels.....	959
Proceeds of lubricating oil tax credited to State Highway Patrol Fund.....	293, 508
Proceeds on motor fuels, to credit of Highway Department for public roads and bridges.....	961
See Motor Fuels	
See Use Tax Act	
Tobacco products.....	538

EXECUTIVE COMMITTEE

Officers, when candidates, disqualified from performing duties relating to absentee ballots.....	364
--	-----

EXECUTIVE DEPARTMENT

Attorney General, duties.....	57
Salary.....	33, 139

EXECUTORS

Distribution of assets.....	226
Filing of settlement, reduction bond as fiduciary.....	883
Lawful to invest funds in notes or bonds secured by mortgage or trust deed, insured by Federal Housing Administrator.....	227
Sales of mortgages.....	226

EXEMPTIONS

Amount paid as old age assistance.....	694
Amount set apart inadequate for purchase homesteads.....	864
Appropriation from income tax to property tax relief fund amount for replacement of revenues lost by homestead exemption from ad valorem taxes.....	28, 421, 703
Bonds, state, county and municipal for construction bridges, etc.....	936
Bonds water works board cities and towns.....	714
Containers for storage, transportation, handling or utilization liquified petroleum gas.....	970
Death taxation, money, credits, securities and other intangible personal property.....	965
Drivers' license.....	303
From ad valorem taxes, factories and plants.....	529
From "Blue Sky" laws of savings and loan associations.....	658
From sales tax.....	18, 499
From taxation of bonds authorized to be issued to pay or retire bonds of Alabama Bridge Commission (an agency of the State of Alabama).....	537, 574
From taxation of bonds authorized to be issued to refund bonds of Alabama State Bridge Corporation and Alabama Bridge Authority, Inc.....	550, 577
Gross proceeds on sale of fluid milk.....	228
Homesteads.....	28, 703, 830
Interest coupons.....	343
Licenses on small trailers attached to passenger cars, weight.....	533

EXEMPTIONS—Continued

Naval Militia.....	708
Of wages of employees from levy under writs of garnishment.....	396
Pension and relief fund from taxation.....	801
Poll tax.....	776
Principal and interest of obligations borrowed by certain counties.....	862
Property, State.....	99
Remissions of taxes to factories.....	529
Right of persons for retirement allowance, from state or municipal tax.....	573
Sales tax fuel and supplies aboard ships.....	170
See Unemployment Compensation Law, 1935, amended	
State, county or district agricultural fairs operating without concessions.....	516
Text Books.....	99
To widows and minor children.....	864
Use tax.....	98
Warrants.....	343
Water works boards from jurisdiction public service commission.....	715-716
Wrestling matches and exhibitions conducted by National Guard or naval militia.....	708

EXPERIENCE RATING PROGRAM

Joint resolution requesting Governor to appoint committee to review progress.....	966
---	-----

EXTENSION SERVICE, STATE

Director, member State Crop Improvement Committee.....	1021
Director member State Soil Conservation Committee.....	203
See Soil Conservation Districts Law	

EXTRADITION

Of probationers waived.....	432
-----------------------------	-----

FACTORIES

Spinning, weaving, knitting, taxes remitted.....	529
Taxes remitted.....	529

FACTORY INSPECTION

Appropriation to Department of Industrial Relations Department for administering act.....	967
---	-----

FAIR

License	
State, county or district agricultural exempt.....	516

FAIR GROUNDS

Acquisition lands by counties for.....	507
--	-----

FAIR TRADE ACT

Advertising commodity at less than stipulated price.....	37
Agreements.....	36
Articles of value offered in connection with sale of commodities	36
Buyer shall not resell for less than stipulated price.....	36
Closing out stock.....	36
Combination sales.....	36
Commodity.....	35
Concessions.....	36
Contracts of sales of commodities bearing trade mark.....	36, 37

FAIR TRADE ACT—Continued

Contracts shall not preclude resale of commodity.....	36
Coupons	36
Definitions	35
Distributor authorized to establish minimum resale price.....	36
Evasions of resale price restrictions.....	36
Goods altered, damaged.....	37
Minimum resale price established by owner of trade mark.....	36
Owner of stock shall notify producer or distributor of intention to close out stock.....	37
Producer.....	35
Removal of brand or trade mark from commodity.....	37
Requirement by buyer that dealer will not resell for less than stipulated price.....	36
Retailer	35
Violations	37
Wholesaler	35
Wholesaler shall agree not to resell to other wholesalers unless agreement not to resell.....	36
Wholesaler to agree not to resell to retailer without statement of retailer not to resell except to consumers and at stipulated price	36

FAIR TRADE PRACTICES

Dealing in milk.....	286, 874
----------------------	----------

FARMERS

Joint resolution for relief of farmers.....	64-7, 142
Joint resolution requesting congress to restore to former economic importance.....	64-7, 142

FARM PRODUCE

State Secondary Agricultural School Demonstration Farms Sold....	881
--	-----

FEDERAL DECENNIAL POPULATION CENSUS

Date for any reclassification under.....	388
--	-----

FEDERAL HOUSING ADMINISTRATOR

Investment in mortgages insured by.....	226
Sale mortgages insured by.....	227

FEES

Charged in misdemeanor cases regulated.....	229
Proposed constitutional amendment authorizing Legislature to fix, alter, regulate fees, commissions, allowances, including method or basis of compensation to be charged or allowed sheriff of Mobile County.....	581
Received or collected by sheriff Mobile County paid into treasury, proposed constitutional amendment.....	581
United States officers or agents subject to income tax of state....	94

FELONY CASES

Counsel for defendant.....	368
Date set for defendant to make and enter plea of guilty.....	368
Defendant bound over to circuit court awaiting action of grand jury, desire to plead guilty made known.....	368
Defendant confined in jail after having waived to grand jury, desire to plead guilty.....	368

INDEX GENERAL ACTS OF REGULAR SESSION

1177

FELONY CASES—Continued

Defendant confined in jail awaiting preliminary, desire to plead guilty made known.....	368
Defendant discharged.....	369
Defendant recommitted to jail to await action of grand jury.....	368
Defendant released on bond.....	368
Information filed against defendant.....	368
Judgment of conviction.....	368
No right of appeal.....	369

FIDUCIARIES

Distribution of assets.....	226
Investment of funds in notes or bonds secured by mortgage or trust deed, insured by Federal Housing Administrator.....	227
Sales of mortgages.....	226

FILLING STATIONS

Exemption from license on motor vehicle accessories.....	966
Privilege license certain cities and towns, General Revenue Act of 1935, amended.....	968

FINANCE AND CONTROL, BOARD

Act providing that counties 41,000 or more population, authorized to employ stenographers, clerks and assistants, App. Feb. 24, 1937, repealed.....	33
---	----

FINANCE AND TAXATION COMMITTEE

Joint resolution creating, duties.....	356
--	-----

FINANCE, DEPARTMENT

Appropriation.....	412
Audit and examination records municipalities, reimbursement.....	598
Budget and Financial Control Act 1932, amended.....	190-99
Certificate of incorporation to corporation formed to assist county and city boards of education to pay teachers salaries known as Alabama Public Schools Corporation.....	811
Chief of division of local finance, functions and duties.....	717
Director member Alabama Pension Commission, duties.....	684
Director member Board of Control Teachers Retirement System.....	565
Director member State Board of Adjustment.....	602
Director shall present to office or department examined statement of cost of examination and audit.....	597
Salary.....	33, 139
Sale property, livestock, equipment, farm produce State Secondary Agricultural School Demonstration Farms.....	881
See Budget and Financial Control Act 1932	
See Department of Finance Act of 1939	
Statements of amounts due by municipal corporations as reimbursement for salaries and expenses for examination and audit municipal corporations.....	599

FINANCE, LOCAL

Appointment agent to take charge of revenues of counties in default.....	719
Charge of revenues, monies, income counties, municipalities, extent.....	718
Chief of division.....	718
Default in payment of principal or interest on bonds by counties or municipalities.....	718

FINANCE, LOCAL—Continued	
Notice of appeal of aggrieved parties.....	718
Public hearing on default in payment obligations.....	718
Readjustment and refinancing bonds in default.....	718
Special emergency temporary loans certain counties.....	862
FINANCIAL AND CONTROL ACT, BUDGET AND	
See Budget and Financial Control Act 1932	
FINANCIAL INSTITUTIONS, EXCISE TAX	
Bad debts.....	496
Expenses defined, revenue act 1935 amended.....	496
Interest.....	496
Losses.....	496
Payment and distribution excise tax, revenue act 1935 amended.....	517
FINE AND FORFEITURE FUND	
Transfer witness fees.....	34
FIRE DEPARTMENT	
Period of time within which may reorganize under civil service regulations, act amended, cities 20,000 to 50,000 population.....	44
FIRE MARSHAL EX-OFFICIO	
Application for permit to engage in sale of liquified petroleum gas and installation of equipment filed with.....	970
Bond filed to engage in sale liquified petroleum gas and installation equipment.....	970
Duties transferred to Bureau of Insurance of Department of Commerce.....	12, 294
May prescribe rules and regulations for installation containers for storage, transportation, handling or utilization liquified petroleum gas for industrial, commercial and domestic use, bond posted.....	970
Superintendent of Insurance.....	12, 294
FIREMEN	
Retirement Class "C" cities.....	832
FIREMEN'S PENSION AND RELIEF FUND	
Applicability.....	920
Beneficiaries.....	922
Benefits.....	915, 925
Convention for election, trustees, delegates.....	915-6
Disability of reports of fire department.....	920, 923
Examination for retirement.....	922
Insufficiency.....	920
Investment.....	919
Management and control.....	917
Membership, board of trustees, election.....	913-14
Payments by cities of percentage of salary of employees.....	919
Payments by fire insurance companies, reports.....	918, 924
Pension to widows.....	922
Pensions, relief, retirement by, on graduating scale.....	918
Personnel Director, secretary board of trustees.....	916
Proof of widowhood.....	924
Reports by board of trustees to board of city commissioners.....	919
Retirement.....	920

FIREMEN'S POLICEMEN'S RETIREMENT FUND

Amount of retirement pay.....	136
Amounts paid by public utilities deducted from privilege or li- cense tax.....	133
Appeals	138
Authority, board of trustees.....	132
Board of Trustees, Class "D" cities.....	131, 133
Bond of secretary-treasurer.....	132
Bonds purchased.....	134
Children of retired members, benefit.....	137
City attorney to give advice.....	138
Examination of retired members.....	136
Existing funds.....	134
Expenses	138
Forfeit of right to benefit.....	138
Funds exempt from levy.....	135
Investment	134
List of retired policemen and firemen	138
Moneys paid into.....	133
Payments by warrants.....	135
Penalty failure pay assessments into.....	134
Percentage paid beneficiaries.....	135
Public utilities pay into.....	133
Qualifications to receive benefits.....	138
Record of proceedings kept.....	132
Report of Board of Trustees.....	135
Retirement Class "C" cities.....	832
Retirement fund.....	132
Reward money.....	133
Secretary-treasurer, board of trustees, duties.....	132
Trustees	133
When members may be retired.....	135
Widowed mother retired members.....	137
Widow of active member, benefit.....	137
Widow of retired member, benefit.....	137
Witness fees paid into.....	133

FIRE PROTECTION

Any portion funds appropriated for fiscal year not used for ac- quisition of land for State parks and parks used to carry out provisions of Section 989 Code 1923, as amended March 2, 1937	32
See Department of Conservation Act of 1939	

FIRES

Defacing warnings, punishment.....	712
Fire lines, lanes, or breaks.....	713
Malicious setting fire, punishment.....	711
Suppression	711

FISCAL YEAR

Boards of education.....	343
--------------------------	-----

FISH

Consent of State to cooperate with United States Department of Agriculture in restoration, in compliance with Pittman-Robert- son Act.....	803
See Department of Conservation Act of 1939	

FISHING

In wildlife management areas.....	1062
-----------------------------------	------

FLAG

Joint resolution on reception of Iowa delegation.....	164
Joint resolution, return of old historic flag of Alabama from Iowa	957
Presented to Secession Convention in 1861, returned.....	164

FLAG WEEK

Commissioner Public Instruction directed to arrange for observance	125
Joint resolution for observance.....	125

FLORICULTURAL WORK

Applications	867
Bond for engaging in.....	867
Defined	866
Examination and licenses.....	867
Examining Board created.....	867
License for practice.....	867

FOREIGN GOVERNMENTS

Unlawful to assemble with other persons attired in foreign uniforms	987
Unlawful to wear uniforms of foreign state, nation or government	987

FORESTER, STATE

Office abolished.....	256
-----------------------	-----

FORESTRY COMMISSION, STATE

Abolished	256
Division of Forestry established in Department of Conservation.....	260
Salary	33, 139

FORESTRY DIVISION

Counties authorized to assess and levy special annual tax against forested acreage.....	884
Fines for violation of provisions of act relating to timber shall go to	995
Forest Protection area.....	884-5
Forestry Protection Fund.....	815, 884
See Conservation, Department of	
See Department of Conservation Act of 1939	

FOREST PROTECTION FUND

Counties authorized to assess and levy special annual tax, limit.....	884
---	-----

FOREST RESOURCES

Malicious setting fire.....	712
Suppression fires.....	712

FORESTS

Consent of State to cooperate with United States Department of Agriculture in restoration, in compliance with Pittman-Robertson Act.....	803
See Timber	
See U. S. Forest Service	
Protection	993-994

FORESTS AND PARKS, STATE

Any portion funds appropriated for fiscal year not used for acquisition of land for State Forests and parks used to carry out provisions of Section 989 Code 1923, as amended March 2, 1937	32
---	----

FORT MORGAN RESERVATION

Joint resolution petitioning Congress to authorize grant of lands to Alabama as part of its park system and wild life reservation....	346
---	-----

FOURTEENTH JUDICIAL CIRCUIT

Official court reporter, allowance, travelling	111
--	-----

FRATERNAL BENEFIT SOCIETIES

Action for dissolution made by Attorney General.....	936
Appointment of receiver for protection of trust fund	936
Failure to comply with provisions, enjoined from carrying on further business.....	816
Quo warranto proceedings against.....	816
Solvency, how determined.....	816

FREE TEXT BOOK FUND

Appropriation to State Board of Education	400, 899
---	----------

FREE TEXT BOOKS

Fund appropriated for furnishing	400, 899
--	----------

FUEL

Act regulating use of state owned motor vehicles and for which fuel or tag furnished by State institution, repealed.....	37
--	----

FUEL AND SUPPLIES

Exemptions of sales tax, aboard ship	170
--	-----

FUNDS

Any portion appropriated for fiscal year not used for acquisition of land for state forests and parks used to carry out provisions Section 989 Code 1923, as amended March 2, 1937.....	32
Depositories, state.....	349

GAME

Consent of State to cooperate with United States Department of Agriculture in restoration, in compliance with Pittman-Robertson Act.....	803
See Wildlife Management Areas	

GAME, FISH AND SEAFOODS, DIVISION

Department Conservation Game, Fish and Seafoods, abolished.....	257
Established in Department of Conservation.....	260
Oath, salary.....	261

GARAGES

Exemption from license on motor vehicle accessories.....	966
--	-----

GARNISHMENT

Consent of answer, judgment rendered against garnishee	396
Wages, salaries of laborers or employees exempt from levy.....	396

GAS

Application for permit to engage in sale, bond.....	970
Sale and installation, containers, equipment for storage, transportation, use, for purpose providing gas for industrial, commercial and domestic use, bond posted.....	970
Superintendent of Insurance may prescribe rules and regulations for installation and sale, storage, transportation.....	970

GASOLINE

Act authorizing and ordering election for levying excise tax for maintenance and operation public schools, certain counties, repealed	112
Collection tax.....	883
Excise tax, distribution proceeds.....	792
Excise tax, portion used for Alabama State Highway Corporation	41
Limit of quantity carried by motor vehicles, penalty.....	883
Reciprocal agreements with other states for exchange of rights for operation motor vehicles.....	883
See Motor Fuels	
Transportation, delivery, storage or sale, bond required of distributors, act amended	974

GASOLINE, EXCISE TAX

Appropriation of gasoline taxes and motor vehicle licenses to provide sinking funds on outstanding highway bonds, retirement renewal bonds and pay principal on Harbor Improvements bonds	986
Distribution proceeds.....	792
Issuance of bonds authorized to pay or retire outstanding bonds of Alabama Bridge Commission (an agency of the State of Alabama)	537, 574
Issuance bonds authorized to pay or retire outstanding bonds Alabama State Bridge Corporation and Alabama Bridge Authority, Inc.....	550, 576
Motor fuels	958
One-twelfth used for public corporation to construct public roads and bridges, act amended.....	2, 3
Penalty for failure to pay, motor fuels.....	959
Proceeds on motor fuels, to credit of Highway Department for public roads and bridges.....	961
See Excise Tax	
See Motor Fuels	

GASOLINE FILLING STATIONS

Privilege license certain cities and towns, General Revenue Act of 1935, amended	968
--	-----

GENERAL FUND

Monies in special trust fund covered into state treasury to credit of Replacement levy lost by exemption homesteads.....	808
	930

GENERAL FUND OF COUNTIES

Witness fees.....	34
-------------------	----

GENERAL REVENUE

See Revenue, General

GEOLOGICAL SURVEY

Appropriation	415
---------------------	-----

INDEX GENERAL ACTS OF REGULAR SESSION 1183

GEOLOGIST, STATE	
Notice of drilling filed with.....	1012
See Oil and Gas Board, State	
GIRLS, ALABAMA VOCATIONAL SCHOOL FOR	
Appropriation	504
GOLD STAR HIGHWAY	
U. S. Highway No. 11 joint resolution designating.....	165
GOVERNING BODY	
Counties and municipalities shall submit names for County Boards of Equalization to Commissioner of Revenue.....	178-9
GOVERNMENT BUILDINGS	
Act making appropriations for expenses executive, legislative and judicial departments, interest on public debt and public schools, act amended, maintenance and repair of general government buildings	4
GOVERNOR	
Appropriation	411
Authorized enter into compact with any of United States for mutual helpfulness in relation to persons convicted of crime or offenses, on probation or parole.....	432
Authorized to make expenditures from contingent fund for repair and upkeep of mansion and official entertainment.....	31
Authorized to remove and discharge state employees.....	4
Authorized to use any part unexpended balance of any annual budget allotment made for active military service appropriation.....	827
Committee to make study experience rating.....	731
Functions and duties of governor and secretary with respect to property, capitol and grounds, transferred to Department of Finance	152
Joint resolution requesting appointment committee to review progress of experience rating program adopted under unemployment compensation law	966
Officer designated to carry out terms of compact for mutual helpfulness in relation to persons convicted of crime or offenses, on probation.....	432
Powers of militia, See Military Code amended	
Salaries employees.....	33, 139
See Commission	
GOVERNOR'S MANSION	
Appropriation	4, 44
GRAND JURY	
Indictment dispensed with, in felony cases, exception	368
See Felony cases	
GROSS RECEIPTS TAX	
See Sales Tax	
GROVE HILL ENDOWMENT	
Appropriation	417
GUARDIAN AD LITEM	
Act regulating fees, commissions, allowances, to be charged as court costs, etc. repealed	992

GUARDIANS

Distribution of assets.....	226
Filing of settlement, reduction of bond.....	883
Invest sinking funds in bonds issued by housing authorities.....	901
Investment of funds in notes or bonds secured by mortgage or trust deed, insured by Federal Housing Administrator.....	227
Sales of mortgages.....	226

GUARDIANSHIP

Administration of estates of persons of unsound mind removed from probate court to circuit court.....	168
---	-----

HEALTH

Appropriation from net proceeds liquor stores.....	526
Examination and treatment of prisoners.....	369
Physicians and others required to report cases of venereal diseases to county health officers.....	370
See Nurses, Board of Examiners and Registration	
Suppression of prostitution declared a public health measure, and prostitution declared to be presumptive evidence of venereal disease infection.....	370
Treatment of venereal diseases.....	486

HEALTH AND SANITATION, CONSERVATION

Appropriation	414
---------------------	-----

HEALTH, COUNTY BOARD

Rabies Inspector.....	330
Shall appoint veterinarian.....	330

HEALTH DEPARTMENT, STATE

Amount collections sales tax to counties, used for health service...	29
Jurisdiction water works system.....	716

HEALTH OFFICER

Shall cooperate with officers in suppression of prostitution.....	370
---	-----

HEALTH OFFICER, COUNTY

Treatment venereal diseases.....	486
----------------------------------	-----

HIGHWAY BRIDGE CORPORATION

Ratification of change of name to Alabama Bridge Commission (an agency of the State of Alabama).....	948
--	-----

HIGHWAY COMMISSION

Salary	33, 139
--------------	---------

HIGHWAY CORPORATION, ALABAMA STATE

See Alabama State Highway Corporation

HIGHWAY DEPARTMENT, STATE

Acquisition lands for development Natchez Trace Parkway.....	595
Appropriation	417
Authorized to construct roads from highway to land included in State Park system.....	879
Bond director.....	10
Conveyance of lands developed for Natchez Trace Parkway to United States Government.....	595
Created	9-10
Creation and organization commission to construct highway bridges, approaches and appurtenances, act amended.....	936

HIGHWAY DEPARTMENT, STATE—Continued

Director, appointment.....	10
Director may become part of public corporation.....	39-44
Duties and authority.....	9
Excise tax on gasoline used for corporation organized to construct public roads and bridges, act amended.....	2, 3
Expenditure salary county engineer.....	869
Expenses director.....	10
Officers and employees authorized to enter upon lands of individuals or corporations to make surveys necessary to construction highways, roads and bridges, securing samples of land, purpose.....	363
Officers and employees may erect stobs, stakes and monuments or other markers required in carrying out survey.....	363
Proceeds of excise tax on motor fuels to credit of, for public and toll roads and bridges.....	961
Relief of Sam Little for injuries.....	1029
Salary director, expenses, how paid.....	10, 365
Securing of samples of land shall not interfere with growing crops.....	363
See Alabama State Highway Corporation	
See Commission	
See Motor Vehicles	
See Public Corporation	
See Trucks	

HIGHWAY PATROL

Bond of officers.....	308
Clerical assistance.....	307
Commissioned and non-commissioned officers.....	307
Director of public safety.....	307
Patrolmen, peace officers.....	307
See Highway Patrol Fund	
See Public Safety, Director	
Unencumbered balance fund transferred to general fund.....	503

HIGHWAY PATROL FUND

Compensation, officers, agents, employees Highway patrol.....	307
Costs, fees or mileage covered into.....	307
How expended.....	307
Proceeds excise tax on lubricating oil credited to.....	293
Unencumbered balance transferred to general fund.....	503

HIGHWAYS

Appropriation.....	417
Construction, commission formed.....	936
Designation Joe Wheeler Highway.....	822
Distribution motor vehicle and trailer license taxes to cities and towns for construction.....	518
Duty county engineer.....	869
Motor vehicles stopping on highways, disabled or picking up passengers.....	1033
Officers and employees State Highway Department authorized and empowered to go across lands of individuals or corporations to make survey necessary for construction highways, roads and bridges, and to secure samples of land.....	363
Railroad companies may purchase motor vehicles for transportation persons or property.....	1019
See Alabama Motor Carrier Act of 1939	
Speed of trucks and motor vehicles.....	690

HIGHWAYS AND EDUCATION COMMITTEE	
Created, joint resolution.....	358
HIGHWAYS AND STREETS	
Portion proceeds excise tax on gasoline set aside for cities.....	792
HOME ECONOMICS	
Appropriation for extension work at Alabama Polytechnic Institute	399
HOME FOR CONFEDERATE VETERANS AND WIDOWS	
Board of Control and Governor authorized to convey ownership of lands for National cemetery.....	226
HOMES	
See Savings and Loan Act	
HOMESTEADS	
Amount inadequate for purchase, hearing.....	864
Appropriation from income tax to property tax relief fund for re- placement of revenues by exemption from ad valorem taxes of	421
Exemption, sales tax replacement.....	28,703,930
Exemptions	830
System of assessing and collecting taxes, certain counties, act amended providing for filing protests to valuation fixed by Board of Equalization.....	830
HORTICULTURAL WORK	
Applications	867
Bond for engaging in.....	867
Defined	866
Examination and licenses.....	867
Examining Board created.....	867
License for practice.....	867
HOSPITAL ASSOCIATION, ALABAMA	
Approval of hospital for service.....	711
HOSPITAL SERVICE	
See Hospitalization	
HOSPITALIZATION	
Assets and liabilities.....	711
Corporations furnishing plan, statement of dues received, contracts or certificates outstanding.....	711
Crippled children, state and federal funds.....	487
Hospitals, rights to participate as member of corporation.....	710
Licenses, when not charged.....	711
Old age assistance.....	696
Statutes applying to insurance companies not applicable to corpora- tions	710
HOUSE OF REPRESENTATIVES	
Offices to remain open during recess.....	359
Secretary of Senate and Clerk of House instructed to procure prop- er medical kits available for emergency.....	956
HOUSING AUTHORITIES LAW	
Area	222
Form and sale of bonds.....	223
Interim certificates.....	223

INDEX GENERAL ACTS OF REGULAR SESSION

1187

HOUSING AUTHORITIES LAW—Continued

Notice, hearing and creation of authority, act amended, relating to resolution of need and area.....	220
Type of bonds.....	222

HOUSING AUTHORITY

Sinking funds may be invested in bonds issued by, when secured by pledge of annual contributions.....	901
---	-----

HOUSING AUTHORITIES

Bonds authorized to be purchased by cities, towns, counties and public bodies	984
Cities and towns shall have power to lend or donate money thereto	986
Contracts, agreements, obligations of housing projects validated....	983
Creation and establishment pursuant to 1935 Housing Authorities Law validated	982
Creating housing authorities shall have power to lend or donate money thereto	986
Duties with respect to rentals and tenant selection.....	982
Management and operation of projects.....	981
Proceedings validated	983
Projects not for profit.....	981
Rentals for dwelling accommodations.....	981

HOUSING PROJECTS

Contracts, agreements, obligations validated.....	983
Creation and establishment housing authorities pursuant to 1935 Housing Authorities Law validated.....	982
Duties with respect to rentals and tenant selection.....	982
Management and operation of projects.....	981
Proceedings validated	983
Projects not for profit.....	981
Rentals for dwelling accommodation.....	981

HUNTERS

See Department of Conservation Act of 1939

HUNTING

In wildlife management areas.....	1062
-----------------------------------	------

ILLITERACY

State, county and city boards of education to cooperate with federal government for removal.....	721
--	-----

IMPROVEMENT AUTHORITY

Engaged in business of furnishing electric service.....	405
See Electric Service	

INCOME

Corporations	521
Definitions	902
Dividends of corporations.....	904
From obligations of United States, or agencies shall be included in gross income.....	93
United States' officers or agents subject to income tax of state.....	94

INCOME TAXES

Application surplus for replacement of revenues lost by exemption of homesteads.....	930
--	-----

INCOME TAXES—Continued

Appropriation from surplus to property tax relief fund necessary for replacement of revenues lost by exemption of homesteads from state ad valorem taxes.....	421
Computing net income of beneficiary, distributive share included	880
Corporations	521
Salaries, fees, commissions, income United States officers, agents, subject to.....	94
Treasurer directed to pay interest bearing warrants from surplus of income tax proceeds.....	232
Warrant commission required to issue to Treasurer interest bearing warrants representing warrants constituting part of floating debt	232

INDEBTEDNESS

Issuance bonds authorized to pay or retire outstanding bonds Alabama State Bridge Corporation and Alabama Bridge Authority, Inc.....	550, 576
Issuance of bonds authorized to pay or retire outstanding bonds of Alabama Bridge Commission (an agency of the State of Alabama)	537, 574
Notation of credits.....	347
Pledge of gasoline excise tax authorized to be pledged to highway bonds, refund bonds of Alabama Bridge Corporation and Alabama Bridge Authority.....	550-576
Secured by recorded mortgage on real estate presumed to be paid twenty years after final maturity, exception.....	347
Temporary loans shall not exceed percentage of uncollected taxes	550, 576

INDETERMINATE SENTENCE

Pronounced for term not less than minimum nor greater than maximum fixed by statute, provisions repealed.....	438
---	-----

INDICTMENT

Dispensed with by grand jury in felony cases.....	368
May be recorded by means of photograph or photostat machine.....	509
Production of book on trial of defendant.....	509
Recording by clerk of court.....	509

INDUSTRIAL CORPORATIONS

Amount capital stock necessary for organization.....	502
Copy articles of incorporation filed with Superintendent of Insurance, amount required.....	502
Mode of incorporation without capital stock	501

INDUSTRIAL DEVELOPMENT

Alabama Industrial Development Board, act repealed.....	771
Division state planning commission.....	475
Duties Commissioner Agriculture and Industries	770

INDUSTRIAL INSTITUTE, SOUTHERN

Appropriation	507
---------------------	-----

INDUSTRIAL PLANT INSPECTION

Appropriation to Department of Industrial Relations Department for administering act	967
--	-----

INDUSTRIAL RELATIONS ACT OF 1939

Abolition of Department of Labor and Office of Commissioner of Labor, transfer of duties.....	236
Abolition of office of Compensation Commissioner, transfer functions and duties.....	237
Abolition of offices of Chief Mine Inspector and Associate Inspector, transfer functions and duties.....	236
Abolition Unemployment Compensation Commission, transfer functions and duties.....	236
Administrative rule.....	252
Administrator unemployment compensation law.....	234
Agreement with Federal agencies.....	253
Agreements with Social Security Board.....	233
Agreements with U. S. Department of Labor.....	233
Application of Merit System Act.....	251
Appointment of chiefs of division.....	250
Appropriation.....	413
Beginning of operation of Department of Industrial Relations.....	251
Board of Appeals, creation, powers, duties.....	240, 241
Board of Appeals, procedure, session.....	244
Boards of Mediation.....	252
Bond.....	233
Cooperate with authorities of U. S. having powers and duties under Wagner-Peyser Act, 1933.....	234
Coordination into one division Department Industrial Relations, Unemployment Compensation and Employment Service.....	250
Creation of Department of Industrial Relations.....	233
Declaration of director of Industrial Relations to Governor filed with Secretary of State when ready to assume duties, contents of declaration.....	235, 236, 237, 251
Director of Industrial Relations, powers.....	233, 239
Divisions of Department of Industrial Relations.....	249
Duties.....	235, 237, 251
Duties employers as to safety.....	244
Duty to furnish information; records.....	248
Effective date rules and regulations.....	246
Employees Department.....	250
Executive director Unemployment Compensation Commission to continue functions and duties until Director Industrial Relations shall assume.....	235, 239
Ex-officio Chairman Board Mine Examiners.....	236
Functions and duties, exceptions.....	234
Oath of director.....	233
Observance of labor laws.....	248
Penalties.....	249
Petition and hearing.....	247
Power as to witnesses, fees.....	248
Prevention use of dangerous machines, tools.....	245
Proposal of rules and regulations.....	246
Proration of salary.....	251
Public hearings on proposed rules and regulations.....	246
Repeal.....	253
Report to Governor.....	234
Review of rules.....	247
Revoking or amending rules.....	247
Right of entry.....	248
Salary.....	233

INDUSTRIAL RELATIONS ACT OF 1939—Continued

Seal	233
Severability	253
Solicitors' fees	249
Title of Act	233
Transfer of functions and duties of other departments and agencies to	235
Transfer of funds, exceptions	237
Transfer of records, equipment	239
Unemployment Compensation fund	238
Variations from rules	247

INDUSTRIAL RELATIONS, DEPARTMENT

Advisory councils	744
Appropriation	413
Appropriation for administering Workmen's Compensation Act	967
Appropriation for factory and industrial plant inspection for safety of employees	967
Bond of self-insurer required	1038
Circuit court clerk shall report disposition of workmen's compensation cases to	1044
Created	232-55
Director, administration unemployment compensation fund	728
Director shall act as chief division unemployment compensation and employment service	769
Director responsible for administration of workmen's compensation act	1038
Director shall gather statistics on accidents	1043
Duties and powers, unemployment compensation	745
Employers and employees may file written notice with probate judge	1044-45
Personnel for administration unemployment compensation act	745
Publication report	745
Publication text of unemployment compensation act	745
Report	745
See Industrial Relations Act of 1939	
See Unemployment Compensation Law 1935, amended	
See Workmen's Compensation	

INFERIOR COURTS

Appointment	817
Attachment of liens in same manner as in circuit court	683
Election judges	817
Established in cities 35,000 to 67,000 population, repealed	175
Judgments subject to registration as in circuit court	683
Misdemeanors cognizable in justice of peace courts, or courts in lieu thereof, collection solicitor's fee prohibited	229
Processes shall run to any lawful officer of state and be served by sheriff	683

INJURIES

Members militia	788
Workmen's compensation	225, 615, 789

INJURY

Payment of award by employer to trustee	225
---	-----

INSANE HOSPITALS

Adjustment of claims of persons for swamp and overflowed lands	952
Application to probate judge for entrance to U. S. Veterans Administration Hospital	169
Appropriation	416
Appropriation construction and repair buildings Partlow State School	459
Commitments of patients to U. S. Veterans Hospital	172-4
Deed to Creola Lumber Company swamp and overflow lands	808
Revenue from sale of timber, etc., of swamp and overflowed lands paid to	951-2

INSANE PERSONS

Administration of estate of persons of unsound mind may be removed from probate court to circuit court	168
--	-----

INSTITUTIONS

Appropriation	399
---------------	-----

INSTITUTE FOR DEAF AND BLIND

Appropriation	417
---------------	-----

INSURANCE

Action for dissolution made by Attorney General	936
Amount capital stock necessary for organization	502
Appointment of receiver for protection trust fund	936
Copy articles of incorporation filed with Superintendent of Insurance, amount required	502
Corporations, net income, computed	521
Failure fraternal benefit societies to comply with provisions, quo warranto proceedings against	816
Investment of funds in notes or bonds secured by mortgage or trust deed, insured by Federal Housing Administrator	227
Mode of incorporation without capital stock	501
See Uniform Principal and Income Tax	
See Workmen's Compensation	
Solvency of fraternal benefit societies	816

INSURANCE BUREAU

Actuary bond	818
Commissioner, chief officer	11, 294
Employees	818
Examination insurance companies, payment expenses	819
Examiner	818
Members	11, 294
Method of ascertaining status life insurance companies, expenses	821
Of Department of Commerce	11, 294
Salary	33, 140
Superintendent of Banks member	11, 294

INSURANCE COMPANIES

Examination	819
Invest sinking funds in bonds and other obligations issued by housing authorities	901
Statutes applicable to, not applicable to corporations furnishing plan of hospitalization	711

INSURANCE, SUPERINTENDENT

Chief officer Bureau of Insurance.....	12, 294
Duties transferred to Bureau of Insurance of Department of Commerce	12, 294
Examination affairs fraternal benefit societies.....	816
Ex-officio Fire Marshal.....	12, 294
Failure fraternal benefit societies comply with provisions, affairs closed	816
Functions and duties as ex-officio compensation commissioner transferred to Director of Industrial Relations.....	237
Method of ascertaining status of life insurance companies.....	821
Quo warranto proceedings against fraternal benefit societies.....	816

INTANGIBLE PERSONAL PROPERTY

Held in trust not deemed to be located in this state for purposes of death taxation, because of trustees being domiciled in this state	965
Location for purposes of death taxation.....	965
Reciprocal exemption from death taxation.....	965
Taxable situs for death taxation.....	965

INTEREST

Financial institutions, revenue act 1939 amended.....	496
Income on obligations of United States or agencies shall be included in gross income in determining income taxes.....	93
Warrant commission required to issue to treasurer interest bearing warrants.....	232

INTEREST ON JAMES WALLACE FUND

Appropriation	399
---------------------	-----

INTEREST ON SCHOOL INDEMNITY LAND

Appropriation	399
---------------------	-----

INTEREST ON 16TH SECTION LANDS

Appropriation	399
---------------------	-----

INTEREST ON SURPLUS REVENUE

Appropriation	399
---------------------	-----

INTEREST ON VALUELESS 16th SECTION LANDS

Appropriation	399
---------------------	-----

INTERSTATE COMMERCE

Alabama Motor Carrier Act of 1939 to apply to.....	1067
--	------

INTRASTATE COMMERCE

Certificate of public convenience and necessity to engage in.....	1069
---	------

INVENTORY BOARDS

Abolished, records transferred to County Board of Equalization.....	525, 827
See County Board of Equalization	

INVESTIGATIONS

Of deaths and crimes by State Toxicologist.....	584
---	-----

IOWA

Joint resolution providing for return of old historic flag of Alabama from Iowa	957
Joint resolution, reception of Iowa delegation.....	164

JAIL, COUNTY

Act providing for matron counties 100,000 to 300,000 population, repealed	422
Courts of county commissioners authorized to furnish public buildings with office supplies, equipment	1028
Matron counties 100,000 to 300,000	681

JEFFERSON DAVIS

Appropriation to United Daughters Confederacy for completion bronze statue	865
--	-----

JOE WHEELER HIGHWAY

Designation	822
-------------------	-----

JOINT COMMITTEE

Compensation members	171, 462
Copies of report to be printed by Secretary of State	172, 462
Created, of House and Senate members, to read manuscript of Code	14, 171, 462
Duties	14, 171, 462
Employees	14, 171
Joint resolution commending W. S. Welch and John A. Lusk, chairman and vice-chairman, and members of Joint Committee of two Houses of Legislature, for successful completion of 1940 Code	1004
Leaves of absence	462
Meeting place	14, 172, 462
Vacancies	14, 172, 462

JOINT RESOLUTIONS

Adjournment Legislature, recess	459
Clerk of House and Secretary of Senate to keep offices open during recess	359
Commending W. S. Welch and John A. Lusk, chairman and vice-chairman, and members Joint Committee of two Houses of Legislature, for successful completion 1940 Code of Alabama	1004
Commissioner of Public Instruction directed to arrange for Observance of Flag Week	125
Creating recess committees on Judicial Reform, Education and Highways	358
Creating Senate and House Recess Committee on Finance and Taxation	356
Designating U. S. Highway 11 as the Gold Star Highway	165
Designation S. B. 204 and S. B. 294 as Calhoun-Hardwick bill	762
Designation H. B. 223 as Beck-Harrison bill	483
Designation S. B. 314 as Poole-Langley bill	684
Designation S. B. 468 as Simpson-Brown (Covington) Bill	900
Designation S. B. 468 as Young-Norman (Bullock) bill	684
Designation Local Option Stock Law, H. B. 125 as Walden-Norman Law	762
Duties Clerk of House, Assistant Clerk, reading clerk, chief clerk	359
Duties Secretary of Senate, assistant secretary of senate, second assistant secretary of senate	359
Effort to organize state employees viewed with disfavor	1004
Expressing appreciation of Hon. William B. Bankhead	367
For relief of cotton farmers	64-7, 142
Inviting Hon. William B. Bankhead, Speaker House of Representatives United States, to address joint session Legislature	367

JOINT RESOLUTIONS—Continued

Legislation for the removal of trade barriers.....	64-7
Legislative offices to remain open during recess, duties, officers, employees.....	359, 954
Legislature approves program of President and Congress of United States, to build up defenses and preserve the peace of the Americas, urging continuation of program and pledging co-operation of people of Alabama.....	980
Legislature opposed to passage of bill prohibiting issuance of premiums by manufacturers of good.....	957
Petitioning Congress to authorize grants of public lands and improvements to Alabama as part of its park system and wild life reservation.....	346
Petitioning Congress to refuse enactment of Senate Joint Resolution 24 or other resolution or bill which may seek to establish claim of Federal government to any title or interest in submerged lands or tidelands of Alabama.....	956
Reception of Iowa delegation for deliverance of old historic Alabama Flag.....	164
Relieving Secretary of State, Doorkeeper of House and Senate of responsibility and liability for Codes and other books placed on desks of members of House and Senate.....	1090
Requesting Congress to cooperate in supporting legislation to restore cotton to its former economic importance in world commerce.....	64-7, 142
Requesting Congress to support legislation to provide equal educational opportunities for children.....	131
Requesting Governor to appoint committee to review progress of experience rating program adopted under unemployment compensation law.....	966
Return of old historic flag of Alabama from Iowa.....	957
Secretary of Senate and Clerk of House instructed to procure proper medical kits as property of House and Senate available for emergency.....	956
Urging against price raising of commodities and profiteering at expense of people.....	553
JOLLY, J. D. and JUNIUS J. PIERCE	
Appropriation.....	348
JUDGE OF PROBATE	
Act fixing salary, assistance, election clerk, repealed.....	141
Amount inadequate for purchase homestead, support of widow and minors.....	864
Appeals from orders, judgments and decrees in administration of estates to supreme court.....	1001
Appeals to Supreme Court.....	1001
Applicant shall deliver copy of deed at time of application for entry of warning to redeem.....	355
Appointment member retirement system.....	766
Attorney, next friend or guardian ad litem demanding jury trial in lunacy cases.....	999
Authorized to satisfy claims legally filed when paid.....	109
Bonds recorded operation warehouses.....	588-9
Certain counties shall have power to try inquisitions of lunacy without jury.....	999
Certificate of examination and application for drivers' licenses forwarded to director of public safety.....	301

JUDGE OF PROBATE—Continued

Code, set furnished for use of justices of peace.....	1023
Collection charges court, fees, commissions, allowances, percentages.....	896
Compensation employees, constitutional amendment.....	896
Compensation for issuing drivers' permits.....	301
Conditional sales contracts recorded in office of judge of probate.....	1006
Constitutional amendment providing that Legislature may fix, regulate and alter costs and charges of courts, fees, commissions, allowances and salaries to be charged or received by any county officer of Morgan County, including method and basis of compensation, providing for salary, fees and costs to be paid into county treasury.....	386
Court may proceed according to rules and practice of circuit courts in administration of estates without regard to statutory requirements.....	1000
Drivers' permit fees paid into State Treasury.....	301
Duties with reference to applications for redemption.....	355
Elections of officials Class "C" cities.....	843, 845
Employers may file written notice with Department of Industrial Relations.....	1036
Enforcement of judgments, decrees.....	1001
Entitled to assess and collect costs, fees and commissions as authorized to be assessed and collected by registers of circuit courts.....	1001
Fee for making report of sale.....	264
Fee for notice to delinquent property owner.....	264
General equity jurisdiction conferred concurrent with that of circuit courts in equity in administration of estates.....	1000
Jurisdiction of partial or final settlement of estates.....	109
Laws applicable in circuit courts in administration of estates, applicable in probate courts.....	1001
Legislature may fix, regulate and alter fees, commissions, allowances and salaries, and method or basis of compensation, to be charged or received by tax assessors, tax collectors, probate judges, circuit clerks, sheriffs and registers of equity courts, right to place on salary, in the counties of Etowah and Cherokee, proposed constitutional amendment.....	1034
Licenses for sale of automobiles, trucks.....	497
Licenses issued by Director of Public Safety.....	301
May cause jury to be impaneled.....	999
Non-resident operators motor vehicles making trips may secure permit from probate judge first county in state entered, fee....	527
Pleading, practice and procedure provided.....	1000
Powers and authority conferred as judges and registers of circuit courts have in administration of estates.....	1000
Report of sales of automobiles to.....	497
Salary, proposed constitutional amendment.....	896
See Class "C" cities	
See Probate Courts	
Shall allow justices of peace to take volumes of code from probate office, receipt therefor and return within number days.....	1024
Shall certify to judges circuit court names of attorneys paying license fee.....	872
Shall certify proceeds and appraisement of market value of stock to circuit court, issue made, merging corporations.....	366
Shall perform duties of judges and registers of circuit courts in administration of estates.....	1001

JUDGE OF PROBATE—Continued	
Shall purchase necessary books for jury rolls.....	91
Temporary instruction permit.....	301
To issue decree for sale of land.....	264
To issue drivers' permits.....	300
To report drivers' applications and permits issued to Director of Public Safety, Comptroller and State Treasurer.....	301
When local improvement assessment sale deed recorded, entry of warning to redeem.....	355
JUDGES	
Provisions authorizing indeterminate sentences of imprisonment for term not less than minimum nor greater than maximum fixed by statute, repealed.....	438
JUDGES, CIRCUIT	
Direction of duties by presiding judge.....	353
Divisions.....	353
May excuse jurors from attending court during week for which drawn and summoned.....	61
See Circuit Judges	
JUDGES, SUPERNUMERARY	
Compensation.....	477
Duties, powers.....	477
Tenure.....	477
JUDGMENT	
Execution, power of circuit court.....	167
JUDICIAL CIRCUITS	
See Circuits, Judicial	
State divided into.....	583
JUDICIAL REFORM COMMITTEE	
Joint resolution creating.....	358
Judiciary, Special appropriation.....	412
JURORS	
Act regulating excusing, repealed.....	62
May be excused in certain counties from attending court during week for which drawn and summoned.....	61
May serve during some other week of term of docket.....	61
Suitable lodging and meals provided.....	92
JURY BOARDS	
Act establishing board of jury supervisors certain counties and abol- ishing, repealed.....	166
Act establishing in counties 75,000 to 100,000 population, repealed	165
JURY COMMISSION	
Absent members, quorum.....	87
Appointment.....	87
Cards containing information.....	89
Certificates of persons disqualified or exempt.....	91
Clerk, certain counties, oath.....	88, 90
Clerk, duties.....	89
Clerk, salary, oath.....	88
Clerks of courts shall certify names of persons empannelled, rec- ord made.....	91

JURY COMMISSION—Continued

Cost for summoning person disqualified taxed against clerk and members	91
Courts shall procure juries from boxes.....	91
Disqualification	87
Emptying jury boxes.....	90
Established in every county.....	86
Exemptions	91
Grand and petit jurors, rolls.....	91
Judge of Probate shall purchase necessary books for jury rolls, etc.	91
Jury box	89, 90
Jury boxes certain counties.....	90
Meetings	89
Membership	86
Oath of office.....	87
Penalty	88
President elected.....	87
Quorum	87
Refilling jury boxes.....	90
Rolls	89, 90
Salary	87
Successors	87
Vacancies	87

JURY DUTY

Members National Guard exempt.....	776
------------------------------------	-----

JURY SUPERVISORS, BOARD

Act establishing, counties 75,000 to 100,000 population, repealed....	166
---	-----

JUSTICES OF PEACE

Compilation of sections of code applicable to, to be furnished.....	1024
Penalty for failure to return sets of code to judge of probate.....	1024
Processes of statutory inferior courts shall run to any lawful officer of state.....	683
Set of code available in office of judge of probate.....	1024

JUSTICE OF PEACE COURTS

Appointment judges inferior courts.....	817
Election judges inferior courts.....	817
Misdemeanor cases tried in other courts, collection of fee prohibited	229

JUVENILE AND DOMESTIC RELATIONS COURT

Act relating to dependent, neglected or delinquent children, certain counties, establishing Juvenile and Domestic Relations Court, App. Feb. 26, 1931, amended Jan. 31, 1935, amended Feb. 23, 1937, repealed	62
Appeals	934
Arrest of defendants in other states.....	935
Arrests of probationer or parolee without warrant.....	934
Causes pending shall not abate	64
Causes transferred to Juvenile and Domestic Relations Court created	62
Dockets delivered to created courts	64
Duties with reference to suspension sentence, appointment probation officers, etc.....	431, 437
Payment of fines	935

JUVENILE AND DOMESTIC RELATIONS COURT—Continued

Probation and suspension of executions of sentences.....	933
Revocation	934
Suspension of payments of fines.....	933
System probation and parole regulated.....	933
Violations of conditions.....	934

KITS, MEDICAL

Secretary of Senate and Clerk of House instructed to procure proper medical kits as property of House and Senate available for emergency	956
--	-----

LAAGAR, JACOB

Relief for injuries	1030
---------------------------	------

LABOR DEPARTMENT

Abolition	236
Board of Mediation.....	252
Director of Industrial Relations to conform to minimum standards	253
Salary	33, 139
Transfer of duties and functions to Department of Industrial Relations	236

LABOR DISPUTE

Board of Mediation appointed.....	252
-----------------------------------	-----

LAND COMMISSIONER

Act authorizing Commissioner to contract for investigation of sales of real estate for taxes and bid in for State, and secure sales, act App. Sept. 13, 1935, repealed.....	6
Commissioner of Revenue ex-officio.....	3
Refund to Junius J. Pierce and J. D. Jolly purchase price of tax certificate	348

LANDS

Acquisition by counties, purpose.....	506
Acquisition for development Natchez Trace Parkway.....	595
Act authorizing State Land Commissioner to contract for investigation of sales of land for taxes, and secure sales, App. Sept. 13, 1935, repealed.....	6
Appointment by counties board of trustees for acquisition and maintenance	507
Authority of commission to construct bridges, etc., authorized to enter on land, waters and premises to make surveys, etc.....	940
Conveyance of ownership in Mountain Creek, Chilton County, for National cemetery.....	226
Counties authorized to assess and levy special annual tax against forested acreage of county.....	884
Department of Conservation to have management and supervision public lands.....	949
For armories.....	772
For State park system.....	879
In Mobile County, confirming title to Creola Lumber Company.....	808
Joint resolution petitioning Congress to authorize grants of public lands and improvements to Alabama.....	346
Joint resolution petitioning Congress to refuse enactment of resolution or bill seeking to establish claim of Federal government to any title or interest in submerged lands or tidelands of Alabama	956

LANDS—Continued

Lawful for county, state and government to contribute to acquisition and maintenance.....	507
Malicious setting fire grass, brush, etc.....	713
May be sold or exchanged for other lands.....	951
Officers and employees State Highway Department authorized to enter upon land of individual or corporation to make surveys necessary for construction highways, roads and bridges.....	363
Officers and employees State Highway Department authorized to enter upon land of individuals or corporations to secure samples of land to determine if it can be used for construction, maintenance and improvement of highways, roads and bridges.....	363
Patents	951
Protection timber	
Rent or lease.....	949
School lands, exchange and sale.....	951
Securing of samples shall not interfere with growing crops	363
See Timber	
Suppression fires.....	712
Swamp and overflowed lands, supervision	949
Title claimed.....	949
Trust fund created by public donations for acquisition lands	507

LAND SURVEYING

Appointment county engineer.....	869
----------------------------------	-----

LAW AND EQUITY COURT

Misdemeanors cognizable in justice of peace courts collection solicitors' fee prohibited.....	229
---	-----

LAWS, CODE OF

Adopted	995
See Code of Laws	

LAWYERS

Fee applicants for admission to state bar.....	871
Fee applicants to be examined by board of examiners.....	871
License fee of members.....	872
State treasurer to certify to board of commissioners names of attorneys paying license fee.....	872

LEGAL ADVISER

Salary	33, 139
--------------	---------

LEGAL COUNSEL

Assistant Attorney General.....	5
For Department of Revenue.....	5
May appoint assistant counsel for Department of Revenue.....	5
Office created; appointment, duties, qualifications, bond.....	5

LEGISLATIVE OFFICES

Joint resolution to remain open during recess.....	359, 954
--	----------

LEGISLATURE

Adjournment, recess.....	459
Appropriations for expenses.....	1, 794
Authorized to fix, alter and regulate fees, commissions, allowances and salary, including method or basis of compensation to be charged or allowed sheriff of Mobile County, validation of acts	581

LEGISLATURE—Continued

Designation H. B. 223 as Beck-Harrison Bill.....	483
Joint resolution approving program of President and Congress of United States to build up defenses and preserve the peace of the Americas, urging continuation of program and pledging cooperation of people of Alabama.....	980
Joint Resolution designating Local Option Stock law as Walden-Norman law.....	762
Joint resolution designating S. B. 204 and S. B. 294 as Calhoun-Hardwick bills.....	762
Joint resolution designating S. B. 314 as Poole-Langley Bill.....	684
Joint resolution designating S. B. 468 as Simpson-Brown (Covington) Bill.....	900
Joint resolution designating S. B. 468 as Young-Norman (Bullock) bill.....	684
Joint resolution providing for legislative offices to remain open during recess, duties officers, employees.....	359, 954
Joint resolution urging against price raising of commodities and profiteering at expense of people.....	553
May fix, regulate and alter fees, commissions, allowances and salaries, and method or basis of compensation, to be charged or received by tax assessors, tax collectors, probate judges, circuit clerks, sheriffs and registers of equity courts, right to place on salary, in the counties of Etowah and Cherokee, proposed constitutional amendment.....	1034
Mileage, per diem and expenses members.....	459
Secretary of Senate and Clerk of House instructed to procure proper medical kits available for emergency.....	956

LIBRARIAN, SUPREME COURT

Salary.....	557
-------------	-----

LIBRARIES

Board membership.....	351
Copy Alabama Historical Quarterly to be supplied.....	953
Established in counties.....	350
Joint library board.....	352
Joint library service.....	352
May affiliate with county libraries.....	352
Power library board.....	351
See Public Library Service Division	

LIBRARY SERVICE

Cities not less than 65,000 population.....	351
Counties where free public library existing, separate county library board need not be appointed.....	351
May be provided.....	352
See Public Library Service Division	

LICENSES

Appropriation of gasoline taxes and motor vehicle licenses to provide sinking funds on outstanding highway bonds, retirement renewal bonds and pay principal on Harbor Improvement bonds.....	986
Battery shops, cities and towns certain population, act amended.....	967
Bond required of distributors of gasoline and motor fuels.....	974
County license sale of automobiles, trucks.....	497
Drivers.....	300
Fee for transferring license tag of taxi cab.....	978

LICENSES—Continued

Fishermen and hunters, diversion, exception.....	815
Gasoline filling stations and pumps, certain cities and towns, General Revenue Act of 1935, amended.....	968
Milk	875
Motor Bus Terminals	1089
Motor Carriers	1089
Motor tractors.....	329, 497, 528
Motor vehicles, due date.....	364, 497, 528
Permit cards issued to replace permits lost.....	1059
Practice of entomology, pathology, horticulture, floriculture, tree surgery	866
Public warehouses.....	587
Purchase tags.....	497
Sale of automobiles when no established place of business.....	497
Sale of automobiles, more than one place of business.....	497
See Alabama Motor Carrier Act of 1939	
Sales of motor vehicle accessories, automobile radios, parts, batteries, tires	966
See Privilege Tax	
See Revenue Act of 1935, General, amended	
Street fairs, carnivals, revenue act amended.....	515
To be kept in immediate possession of drivers.....	302
To catch shrimp, oysters.....	889, 891
To deal in milk.....	274
Trailers, semi-trailers.....	533
Transporting and distributing tobacco products.....	1059
Vending machines.....	519

LICENSE TAGS

Demonstration tags.....	497
For taxi cabs may be transferred.....	978
On motor vehicles shall not be transferred.....	978
Purchase	497

LIENS

Indebtedness presumed to be paid twenty years after final maturity, exception	347
---	-----

LIMESTONE

Analysis, Agricultural Code amended.....	606
Dealers to register with Commissioner Agriculture and Industries	606
Registration brands.....	607

LIMITATIONS OF ACTIONS

Administration of estates, claims, commencement of suits.....	806
See Administration	

LIQUIFIED PETROLEUM GASES

Application for permit to engage in sale, bond.....	970
Sales and installation, containers, equipment for storage, transportation, use, for purpose providing gas for industrial, commercial and domestic use, bond posted.....	970
Superintendent of Insurance may prescribe rules and regulations for installation and sale, storage, transportation.....	970

LIQUORS

Sale of, near camps.....	779
--------------------------	-----

LIQUOR STORES, STATE

Net profits, how distributed.....	526
-----------------------------------	-----

LITTLE, SAM

Relief of, for injuries.....	1029
------------------------------	------

LIVESTOCK

Definition	494
Running at large.....	487-496
Sales	18, 228
Sales, act amended.....	529
See Local Option Stock law	
State Secondary Agricultural School Demonstration Farms sold....	881

LOANS

Borrowing money regulated.....	862
Emergency	862
Exemptions from limitation.....	862
Limitation on borrowing.....	862
Retirement of obligations.....	862
See Building and Loan Associations	
See Pension and Relief Fund	
See Savings and Loan Act	
See Uniform Principal and Income Tax	
Temporary	862

LOCAL FINANCE, DIVISION

Chief of Division	160
Established	160
Oath	161
Salary	161
Special emergency temporary loans certain counties.....	862
See Department of Finance Act of 1939	

LOCAL OPTION STOCK LAW

Application	494
Bond given.....	491
Claim of ownership of livestock.....	490, 491
Designated as Walden-Norman Law.....	762
Dismissal of suit.....	491
Elections	494, 495
Failure to reclaim livestock sold.....	493
Fee for recovering livestock.....	488-9, 491
Judgments, liens, appeals.....	488, 490-1
Liability for damages to crops.....	488, 491
Livestock, definition.....	494
Livestock delivered to poundkeeper.....	491
Open range counties.....	495
Order of damages.....	490
Owners of livestock found, unknown.....	489, 491
Owners not liable for damages to motor vehicles.....	488
Possession of livestock found at large.....	488-9, 491
Possession of livestock until judgment paid.....	491
Posting notices of livestock taken up.....	490
Publication of notice of election.....	495
Stock law counties.....	495
Stock law districts.....	495
Unlawful stock to run at large.....	488

INDEX GENERAL ACTS OF REGULAR SESSION

1203

LODGING

Provided for jurors, bailiffs and deputy sheriffs..... 92

LUBRICATING OILS

Concessions, discounts, refunds, premiums or gratuities prohibited 973

Prices and taxes to be posted..... 972

Sale of motor fuel and, regulated..... 972

Unlawful to sell at price other than that posted..... 973

LUBRICATING OIL TAX

Credited to State Highway Patrol fund..... 293

Credited to State Planning Commission..... 508

See Excise Tax

LUNACY

Attorney, next friend or guardian ad litem demanding jury trial..... 999

Judge of Probate certain counties shall have power to try inquisitions without jury, exception..... 999

LUSK, JOHN A.

Joint resolution commending W. S. Welch and John A. Lusk, chairman and vice-chairman, and members of Joint Committee of two Houses of Legislature, for successful completion of 1940 Code 1004

MALARIA

Constitutional amendment providing that court of county commissioners Colbert County authorized to divide county into drainage districts for control..... 483

MANUFACTURING COMPANIES

See Railroad Companies

MANUFACTURERS' PREMIUMS

Legislature opposed to passage of bill prohibiting issuance of premiums by manufacturers of goods, joint resolution..... 957

MARSHAL, SUPREME COURT

Salary 557

MATRON

County jail certain counties..... 681

County jail certain counties, act providing repealed..... 422

MEDIATION BOARD

Appointed 252

Code sections repealed 253

Department of Industrial Relations..... 252

MEDICAL ASSOCIATION, STATE BOARD OF CENSORS

Approval of hospital for service..... 710

MEDICAL EXAMINERS, STATE BOARD

Examinations 167

Rules for practice of chiropody..... 600

MEDICAL KITS

Secretary of Senate and Clerk of House instructed to procure proper medical kits as property of House and Senate available for emergency 956

MEDICINE

Examinations, physicians	167
Qualifications for practice of chiropody, code section amended.....	600

MEMORIAL BUILDING, ALABAMA

Director Department of Archives & History, custody and supervision	583
Erection of monuments on grounds of, to memory of Spanish American War Veterans and World War Veterans.....	1029

MERGER

Appraisement may be set aside.....	366
Appraisers appointed.....	366
Consolidated corporation may apply for payment.....	366
Dissenting stockholders shall be paid market value of stock.....	366
Dissent of stockholders not voting, shall notify secretary of corporation	366
Failure of stockholder to convert stock into stock of consolidated corporation	366
Failure to pay market value.....	366
Judge of Probate must certify proceeds and appraisement to circuit court, issue made.....	366
Judgment against consolidated corporation.....	366
Notice of appeal.....	366
Of two or more corporations, secretary of each shall notify by registered mail each stockholder not present of decision.....	365
Stockholder may apply for payment.....	366

MERIT SYSTEM

Counties 200,000 or more population.....	310-29
Counties 100,000 to 300,000 membership in any national, state or local committee shall not disqualify holding position under.....	863
Leave of absence granted employees to serve in armed forces of United States	1027
Persons called into active service, having status under, shall not lose status	1027
Reemployment or restoration of employees granted leave of absence to serve in armed forces of United States.....	1027
Regulation and control officers and employees State in classified and unclassified service.....	870, 872
Regulation pay plan.....	870, 872
See Civil Service System	

MERIT SYSTEM ACT

Appointments	77
Attendance of witnesses; fees; false oaths.....	84
Certification of payrolls.....	74
Classification of positions.....	74
Corrupt practices	84
Definitions	68
Demotions	80
Director; qualifications, compensations, removal.....	71
Dismissals	81
Duties director.....	71
Effective dates	86
Emergency appointments	78
Exceptional appointments	78
Exempt, classified and unclassified service.....	73, 876

MERIT SYSTEM ACT—Continued

Expenses of department	85
Extraordinary appointment	78
Fees of witnesses	84
Functions and duties board	70
Ineligibility	84
Investigation	83
Lay-offs	81
Legal services	85
Marshal and Librarian Supreme Court	557
Organization of State Personnel Board	70
Pay plan	75
Penalties	84
Pensions or retirement plan	83
Political activities prohibited	82
Procedures for filling unskilled and custodial positions	77
Promotions	80
Provisional appointments	78
Provisions applicable to all state officers and employees covered thereby at time of enactment	872
Records of department	85
Repealing clause	86
Rules	72
Service ratings	80
Severability	86
State Personnel Department created	69
Status of present employees	83
Suspensions	82
Temporary appointments	78
Tests	75
Training programs	83
Transfers	80
Use of public buildings	85
Veterans' ratings	76
Working test period	79

MILEAGE TAXES

Collected from motor carriers	1051
See Motor Carriers	

MILITARY

Unlawful to assemble with other persons attired in foreign uniforms	987
Unlawful to wear uniforms of foreign state, nation or government	987

MILITARY ADVISORY BOARD

See Military Code amended

MILITARY & NAVAL AFFAIRS

Salary	33, 139
--------------	---------

MILITARY CODE, AMENDED

Active military service, appropriation	1001-4
Adjutant General	783
Boxing, sparring and wrestling match exhibitions	782
Compensation for injury, disability and death	788
Compensation of civil officers	788, 791
Compliance with federal government requirements relating to offi- cers of state staff	782

MILITARY CODE, AMENDED—Continued

Composition militia.....	775
Court of inquiry.....	781
Definitions.....	775, 788
Depositories or arsenals.....	777
Election and nomination company officers, vacancies.....	786
Elections, nomination and appointment field officers; term of office, removal, vacancies, orders for election.....	786
Emergency officers.....	781
Employees Military Department.....	783
Exemption from poll tax, street tax and jury duty.....	776
Governor may supplement items of appropriation.....	1003
Injury and disability.....	790
Issuance commissions, examinations.....	787
Military leave for government employees.....	777
Militia.....	775
National Defense Act.....	775
National Guard service medals.....	779
Officers accountable and responsible for military property.....	778
Officers and employees in State Military Department.....	783
Penalty for non-attendance at drills, field instruction or non-com- pliance with duties relating to armory drills.....	788
Personal staff of Governor.....	781
Recovering property.....	778
Register of eligibles.....	786
Regular military appropriations.....	791
Regulations governing unorganized militia.....	781
Reports made by Adjutant General to Governor.....	784
Retaining property.....	778
Retirement of officers, warrant officers, and enlisted men.....	780
Sale of liquors prevented in or near camp.....	779
State military advisory board, membership.....	781
State Register of eligibles for commission.....	784
When officers and enlisted men are entitled to vote.....	787
 MILITARY DEPARTMENT.....	
Appropriation.....	413, 791, 1001-4
Armory Commission to provide armories, etc.....	773
Employees members Alabama National Guard.....	783
 MILITARY GROUNDS.....	
Acquisition lands by counties for.....	507
 MILITIA.....	
Active military service appropriation.....	1001-4
See Military Code, Amended.....	
 MILK.....	
Exemption on gross proceeds of sales.....	228
 MILK CONTROL.....	
Application for license.....	274
Certiorari to review.....	286
Construction, exceptions and limitations.....	281
Cooperation with other governmental agencies.....	288
Cooperative corporations.....	287
Declaration of marketing areas.....	271
Definitions.....	268
Disposition of license fees and fines.....	281

MILK CONTROL—Continued

Employees Milk Control Board.....	270
Enforcing compliance.....	289
Entry, inspection and investigation.....	274
Executive secretary and financial officer.....	281
General powers of Milk Control Board.....	272
Granting and revoking licenses.....	277
Hearings, fees.....	287
Illegal purchase or sales of milk bottles.....	286
License fees.....	275, 875
License year.....	275
Licenses to producers, producer-distributors, milk dealers, stores and distributors.....	274, 875
Milk Control Board.....	269
Notice of price fixing meetings.....	282
Orders fixing prices and handling charges for milk.....	282
Records.....	280
Reports.....	280
Reports and bonds of milk dealers.....	276
Rules and orders.....	273
Rules of Fair trade practices.....	286
Violations made misdemeanors, penalties.....	288

MILK CONTROL BOARD

Created.....	269
See Milk Control	

MILK SHED

Marketing areas.....	271
See Milk Control	

MINE INSPECTOR, CHIEF

Abolished.....	236
Location of chief of division of Department of Industrial Relations charged with duty inspecting and supervising mining industry.....	236
Offices associate inspectors abolished.....	236
Salary.....	33, 139
Transfer of functions and duties to Department Industrial Relations.....	236

MINIMUM SCHOOL PROGRAM FUND

Allotment to county or city board of education reduced for violations.....	612
Appropriation to State Board of Education.....	399
Corporation formed to assist local boards of education to pay teachers salaries known as Alabama Public Schools Corpora- tion.....	811
Expended in accordance with regulations state board of education See Board of Education, State.....	600
State Board of Education shall calculate economic index of financial ability of each county and cities therein.....	479, 480
Transfer of surplus to credit of general fund in state treasury transferred to.....	599

MINING COMPANIES

See Railroad Companies

MISDEMEANORS

When no fee taxed or collected.....	229
-------------------------------------	-----

MOBILE

Confirming title to lands to Creola Lumber Company..... 808

MOBILE COUNTY

Proposed constitutional amendment, authorizing Legislature to fix,
alter, regulate, fees, commissions, allowances and salary in-
cluding method or basis of compensating sheriff..... 581

MOBILE PORT DOCKS

See Department of State Docks & Terminals

MONIES

Borrowing by certain cities regulated..... 862
Collected by Department of Commerce covered into State Treasury..... 505
Collected by Securities Commission covered into State Treasury..... 505
Definitions..... 862
Held in trust not deemed to be located in this state for purposes of
death taxation, because of trustee being domiciled in this State..... 965
Limitation on borrowing..... 862
Location for purposes of death taxation..... 965
Reciprocal exemption from death taxation..... 965
Taxable situs for death taxation..... 965

MONUMENT COMMISSION, ALABAMA

Abolished..... 256

MORGAN COUNTY

Proposed constitutional amendment providing that Legislature may
fix, regulate and alter costs and charges of courts, fees, com-
missions, allowances and salaries of county officers, including
method and basis of compensation, salary provided; fees, costs
and allowances to be paid into county treasury..... 386-88

MORTGAGE BROKERAGE BUSINESS

In savings and loan associations prohibited..... 660

MORTGAGES

Final maturity date of debt not shown, when time shall run..... 347
Indebtedness secured..... 347
Investment of funds in notes or bonds secured by mortgage or
trust deed, insured by Federal Housing Administrator..... 227
Notation of credits..... 347
Owner given time in which to record credits..... 347
Sale of, by trustees, executors, administrators, guardians, fiduciaries..... 226
Third parties without actual notice, indebtedness paid..... 347

MOTOR BUS TERMINALS

See Alabama Motor Carrier Act 1939

MOTOR CARRIERS

Assessments, appeals..... 1054-5
Deficiency in payment, mileage tax, penalty..... 1053
Delinquency in paying mileage tax..... 1057
Increase in mileage tax..... 1052
Mileage tax..... 1051, 1053
Mileage tax lien on property of..... 1055
Motor Carrier Fund..... 1057
Railroad companies may purchase motor vehicles for transporta-
tion persons or property..... 1019

MOTOR CARRIERS—Continued

Reciprocal agreements with other states.....	1052, 1056
Records of mileage kept, failure.....	1053
Refunds	1053-54
See Alabama Motor Carrier Act of 1939	
Shall file bond	1057
Sheriff's levy	1056
Statement of mileage traveled, to State Department of Revenue	1052, 1054
Writ of execution	1055
Violation in mileage tax reports, etc.....	1057

MOTOR FUELS

Concessions, discounts, refunds, premiums or gratuities prohibited	973
Definitions	958
Delinquents, lien	961
Department of Revenue authorized to prepare claim against distributor or storer of motor fuels adjudged delinquent in payment of excise taxes	962
Distributor's excise tax.....	958
Effective date of act providing for excise tax.....	963
Excise tax applicability	959, 960
Excise tax for storing, exception.....	959, 960
Excise tax imposed only where used in operation of motor vehicles	960
Excise tax payable but once.....	958
Excise tax payable upon basis of sales.....	959, 960
Failure to pay excise tax, penalty.....	959, 960, 961, 962
Forms of statements furnished by Department of Revenue.....	960
Notice to State Department of Revenue to engage in sale or withdrawal of, bond.....	961
Permits issued by Department of Revenue.....	960
Prices and tax to be posted.....	972
Proceeds of excise tax to credit of Highway Department for public roads and bridges	961
Records kept by distributors and storers, penalty.....	959, 960
Remission of penalty	960
Sale and delivery in another state and to U. S. not constituted taxable transactions	959
Sale of lubricating oils and, regulated.....	972
Sale permitted without liability for tax levied when made to licensed user, distributor or storer who has obtained permit.....	960
Statement of total sales and withdrawals to Department of Revenue, penalty	959, 960, 961
Transportation, delivery, storage or sale, bond required of distributors, act amended	974
Unlawful to sell at price other than that posted.....	973

MOTOR PROPELLED VEHICLES

Act regulating use by State and institution, and for which fuel or tag furnished by State, repealed.....	37
--	----

MOTORS

Persons defacing trade marks or identifying marks when encumbered with mortgage, conditional sale contract, penalty.....	1061
--	------

MOTOR TRACTORS

License, exception, act amended.....	329, 497, 528
--------------------------------------	---------------

MOTOR VEHICLE ACCESSORIES

License for sale	966
License for sale automobile radios, parts, batteries, tires.....	966

MOTOR VEHICLES

Act regulating business of selling used motor vehicles amended relating to violation and enforcement of act.....	989
Appropriation of gasoline taxes and motor vehicle licenses to provide sinking funds on outstanding highway bonds, retirement renewal bonds and pay principal on Harbor Improvement bonds	986
Burglary, penalty.....	38
Director of Department of Public Safety authorized to enforce provisions of act regulating business of selling used motor vehicles	989
Distribution taxes to cities and duties, use.....	518
Length	689
License	497
Licenses, due date.....	364
License for sale of accessories, parts.....	966
License for sale of, when no established business in Alabama.....	497
License for sale of, when more than one place of business.....	497
License for tractors.....	528
Licenses for trailers.....	534
Licenses to drive.....	300-9, 503
License tags for taxi cabs.....	978
License tags shall not be transferred from one to another.....	978
Limit quantity gasoline carried.....	883
Municipalities certain population may prescribe speed.....	56
Non-residents making trips may secure permit from Judge of Probate of first county in state entered, fee.....	527
Non-residents, when permit secured from Department of Revenue.....	527
On highways stopping disabled, or picking up passengers.....	1033
Operators carrying goods without State, fee.....	528
Penalty violation speed limit certain municipalities.....	56
Prices and taxes on motor fuels and lubricating oils displayed.....	973
Railroad companies may purchase or otherwise acquire for transportation of persons or property.....	1019
Reciprocal agreements for exchange of rights for operation.....	528
Report of sales by dealers to commission.....	497
Sale of motor fuels and oils regulated.....	972
See Alabama Motor Carrier Act of 1939	
See Trucks	
Speed	690
Tags	497
Unencumbered balance Highway Patrol fund transferred to general fund	503
Unlawful to sell motor fuels and lubricating oils at price other than that posted	973
Width	689

MOUNTAIN CREEK

Conveyance of ownership of lands for National Cemetery, Chilton County	226
--	-----

MUNICIPAL BOND CODE

Creation and organization commission to construct highway bridges, approaches and appurtenances, act amended.....	936
See Commission	

MUNICIPAL CORPORATIONS

Ad valorem tax rate limited, power to levy and collect additional taxes	886
Candidates and offices designated by number	1009
Candidates not receiving majority, second election held	1008
Candidates receiving majority, certificate of election shall issue	1008
Canvassing returns of elections	1008
Class "C" Cities	832
Declination to enter second primary, other candidate declared elected	1009
Engaged in business of furnishing electric service	405, 554
Leasing of wharves, code section amended	38
May invest sinking funds in bonds and other obligations issued by housing authorities, provision	901
Participants in second election only those who ran in first election	1009
Public scales provided, code section amended	38
Records and accounts examined and audited, reimbursement	598
Sale of property applicable to assessment and collection taxes, ordinance, General Revenue Act of 1935, App. July 10, 1935, amended	67
See Electric Service	

MUNICIPAL ELECTRIC DISTRIBUTION SYSTEM

See Municipal Electric Utility Boards

MUNICIPAL ELECTRIC UTILITY BOARDS

Accountant, expert, employed, duties	678
Authority and duties	678
Bond of depository	679
Collection, deposit, distribution moneys of system	679
Compensation members, source	678
Creation	676
Expenditures for construction to system	679
Funds, money	679
Impeachment and removal members	678
Meetings	678
Method election and term of office of members	676
Oath of office	678
Official bonds	678
Organization	678
Qualification members	676
Reports of Boards to governing body	679
See Alabama Motor Carrier Act of 1939	

MUNICIPALITIES

Application for permit to sell liquified petroleum gases and for sale and installation equipment, bond filed	970
Appropriation from net proceeds stores, how distributed	526
Authorized to sell, convey or lease property to housing authorities for purposes of aiding and cooperating in housing projects	983
Canvassing returns of elections	1008
Candidates receiving majority, certificate of election shall issue	1008
Candidates not receiving majority, second election held	1008
Candidates and offices designated by number	1009
Civil service system certain counties	310-29, 542
Construction armories, act amended	772
Conveyance of lands to Armory Commission for Armories	772

MUNICIPALITIES—Continued

County Commission to prorate costs and expenses inventory and appraisal of property by boards equalization.....	524, 828
Declination to enter second primary, other candidate declared elected.....	1009
Default in payment principal or interest bonds.....	717
Employees National Guard see Military Code amended	
Investment of funds in notes or bonds secured by mortgage or trust deed, insured by Federal Housing Administrator.....	227
Leasing of wharves, code section amended.....	38
Library board, membership.....	351
License for operation vending machine.....	520
Live stock running at large.....	487-96
May establish and maintain or aid in establishing free public libraries.....	350
May issue bonds for refunding installments due on outstanding serial bonds.....	290
May settle, adjust and refund bonded indebtedness, act amended.....	290
Names for County Board of Equalization submitted to Commissioner of Revenue.....	178-9
Participants in second election only those who ran in first election.....	1009
Payment and distribution excise tax, financial institutions.....	517
Portion proceeds excise tax on gasoline set aside.....	792
Power library boards.....	351
Public scales provided, code section amended.....	38
Public utilities paying into policemen's and firemen's retirement fund deducted from privilege or license tax.....	133
Records and accounts examined and audited, reimbursement.....	598
Redemption of real property within two years.....	355
Rural, town, or village school library may affiliate with county library.....	352
See County Board of Equalization	
See Class C Cities	
See Local Option Stock Law	
See Municipal Electric Utility Boards	
See Old Age Assistance	
To create and establish municipal electric utility boards.....	675
To provide for old age assistance.....	691
Vacating of streets or alleys, assent of governing body.....	110

MUNICIPALITIES OVER 5000 POPULATION

Dogs running at large.....	329
----------------------------	-----

MUNICIPALITIES 200,000 OR MORE POPULATION

May prescribe speed.....	56
May provide penalties violation speed limit.....	56

MUSEUMS

Acquisition lands by counties for.....	507
--	-----

MUTUAL AID CORPORATIONS

Amount capital stock necessary for organization.....	502
Copy of articles of incorporation filed with Superintendent of Insurance, amount required.....	502
Mode of incorporation without capital stock.....	501

MUTUAL THRIFT ASSOCIATIONS

Application for certificates of incorporation.....	661
See Savings and Loan Act	

NATCHEZ TRACE PARKWAY

Acquisition lands for development.....	595
Conveyance of lands developed for Natchez Trace Parkway to United States Government.....	595
General requirements of U. S. Department of Interior.....	595
Width of area.....	595

NATIONAL GUARD

Active military service appropriation.....	1001-4
Appropriation Armory Commission paying mortgage indebtedness and other obligations.....	827
Armory commission to provide armories, buildings, etc.....	773
Composition	773
Militia of state.....	773
Not required to obtain licenses to hold wrestling watches.....	708
See Armory Commission	
See Military Code amended	

NATURAL GAS

Conserving crude petroleum oil and.....	1009-19
See Oil and Gas Board, State	

NATURAL RESOURCES

Appropriation	415
See Uniform Principal and Income Tax	

NAVAL

Unlawful to assemble with other persons attired in foreign uniforms	987
Unlawful to wear uniforms of foreign state, nation or government	987

NAVAL RESERVES

See Military Code amended

NAVAL SERVICE

Appropriation	1001-4
---------------------	--------

NEEDY AGED

See Old Age assistance

NEGOTIABLE INSTRUMENTS

Banks not compelled to remain open after twelve o'clock noon for transaction of business	1005
Validity not affected when payment, certification or acceptance done or performed between twelve o'clock noon and midnight Saturday, provision	1005

NORMAL SCHOOL, DAPHNE

Abolished	761
-----------------	-----

NURSERYMEN

Reciprocal agreement between Department of Agriculture and In- dustries and other states whereby inspection certificates or per- mits may be granted without payment of fee.....	1007
--	------

NURSES

Applications for certificates of registration, record kept by execu- tive officer, board.....	699
--	-----

NURSES EXAMINERS AND REGISTRATION, BOARD

Appointment	701
Compensation, membership.....	699

NURSES EXAMINERS AND REGISTRATION, BOARD—Continued

Examination of applicants, registration	702
Examinations	701
Executive officer, appointment, duties	699
Officers	701
Qualification executive officer, salary, bond	699
Record of meeting	701
See Nurses, Registered and Graduate	
Term of office	701

NURSES, REGISTERED AND GRADUATE

Alabama State Association Graduate Nurses to submit to Governor list of physicians and nurses	701
Appointment, members, Board	701
See Nurses, Examiners and Registration, Board	

OCCUPATIONAL LICENSE

Vending Machine	519
-----------------	-----

OFFICER, SPECIAL

Act creating office in certain counties repealed	117
--	-----

OFFICERS

Pay plan regulated	870
Provisions Merit System Act applicable to	872
Regulation in classified and unclassified service	870
Subject to provisions Merit System	870, 872
Unlawful to use state property for promotion or advancement of interest of candidate for nomination or election to public office	1031

OFFICIAL COURT REPORTER

Fourteenth Judicial Circuit, allowance	111
--	-----

OIL AND GAS BOARD, STATE

Appeals	1015
Created and established	1010
Definitions	1010
Duties supervisor	1010, 1016
Hearings	1012
Oil and Gas Fund	1018
Percentage of gross casinghead value of crude petroleum oil and gas shall be paid to Department of Revenue	1016
Plaintiff's bond	1015
Powers	1011
Returns filed	1017
Validity tested	1014
Violations	1015

OIL, PETROLEUM

Conserving natural gas and	1009-19
See Oil and Gas Board, State	

OLD AGE ASSISTANCE

Allocation funds	696
Appeal and fair hearing	693
Applicants hospitalized	696
Application for assistance; investigation; determination of eligibility and amount of assistance	693
Appropriation	415
Appropriations state funds	696

OLD AGE ASSISTANCE—Continued

Confederate pensioners eligible.....	696
Counties and municipalities to provide funds.....	692
Definitions	692
Duties of county director.....	695
Duties of State Department.....	696
Exemption of assistance grants from taxes.....	694
Participation State, county Federal government in payment of old age assistance grants.....	695
Penalty for false representation.....	694
Reduction, cancellation or continuance of assistance grant when recipient becomes possessed of property or income.....	694
Review by county board.....	693
Review by the state department.....	694
To whom old age assistance payable.....	692
Transfers from one county to another.....	697

OLD AGE PENSIONS

Appropriation from net proceeds liquor stores.....	526
See Old Age Assistance	

ORGANIZATIONS

Unlawful to assemble with other persons attired in foreign uniforms.....	987
Unlawful to wear uniforms of foreign state, nation or government.....	987

ORPHANS SCHOLARSHIP, WORLD WAR

Appropriation	418
---------------------	-----

OYSTER COMMISSION, ALABAMA

Abolished	256
Act conserving, protecting and developing oysters, App. Mar. 1, 1937, amended relating to licenses for shipping raw oysters or shrimp.....	891
Bonds, repeal of authority to issue.....	257

OYSTERS

License for shipping.....	891
Reports	891

PAPER PULP PRODUCTS

Factories, taxes remitted.....	529
--------------------------------	-----

PARDONS AND PAROLES, STATE BOARD

Appropriation	416, 431
Assistance	427
Conditions of parole.....	429
Created	426
Duties and powers.....	427, 430
Investigation prisoners.....	429
Meetings	427
Membership, term, salary.....	426
Oath of members.....	426
Parole court.....	430
Parole of prisoners.....	428, 429
Prisoners, benefit of counsel.....	431
Prisoners on parole relieved from making reports.....	430
Probation officers, duties.....	427-30
Report filed.....	427
Record of prisoners filed with State Department Corrections and Institutions	428

PARDONS AND PAROLES, STATE BOARD—Continued

Record of prisoners kept.....	428
Return of parolees, fees.....	429
Vacancies.....	426
Violation of paroles.....	429-30
When discharged from parole.....	430

PARKS

Armories.....	773
Consent State to cooperate with United States Department of Agriculture in restoration in compliance with Pittman-Robertson Act.....	803
Deputy police officers.....	878
Duty Director Conservation to preserve.....	877
Established in Department of Conservation.....	260
Violation rules and regulations.....	878

PARKS, STATE

See Department of Conservation Act of 1939

PARK SYSTEM

Counties, cities and towns authorized to donate lands and monies for	879
Duty Director of Conservation to preserve parks, monuments, historical sites.....	878
Highway Department authorized to construct roads from highway to land included in park system.....	879
Joint resolution petitioning Congress to authorize grants of public lands and improvements to Alabama.....	346
Rules and regulations violation.....	879
State park fund.....	879

PARKWAY PURPOSES

Acquisition of lands for development Natchez Trace Parkway, conveyance to U. S. Government.....	596
---	-----

PAROLEE

Apprehension in receiving state.....	432
Cases pending in receiving state, cannot be retaken by sending state before consent.....	432
Duty of receiving state with reference to.....	432
Extradition waived.....	432
Residing in other state provision.....	432
See Probation	

PARTLOW STATE SCHOOL FOR MENTAL DEFICIENTS

Appropriation.....	416
Appropriation for construction and repair of buildings.....	459

PATHOLOGICAL WORK

Applications.....	867
Bond for engaging in.....	867
Defined.....	866
Examination and licenses.....	867
Examining Board created.....	867
License for practice.....	867

PATROLMEN, ROAD

Act providing for employment, discharge and compensation certain counties, repealed.....	465
--	-----

PENSIONS

Amount to confederate soldiers, sailors and widows.....	685
Appropriations.....	419
Available for old age assistance.....	696
Director member Alabama Pension Commission.....	684
Payable monthly.....	685
Policemen and firemen, cities 40,000 to 67,000 population.....	859
Register retired employees.....	859
See Military Code amended	
Surplus of proceeds of levy of one mill tax for old age assistance.....	696
System, Class "C" cities	
To confederate soldiers, sailors and widows, amount.....	398

PENSION AND RELIEF FUND

Appraisal of fund.....	801
Board of managers, how elected, salary.....	797-8
Created.....	796
Definitions counties 100,000 or more population.....	795
Disability relief.....	799
Exemption from taxation.....	801
Fund.....	796
Personnel Director.....	798
Retirement.....	799
Return of contributions.....	800
To whom applicable.....	795

PENSION COMMISSION, ALABAMA

Assistant examiners of accounts to make investigation pension rolls.....	685
List of unpaid pension warrants.....	685
Members, duties.....	685
Secretary, salary.....	685

PEOPLES PUBLIC SERVICE ATTORNEY

Salary.....	33, 139
Section of act to protect rights of public in matters involving public utilities, repealed.....	168

PERSONAL PROPERTY

Conditional sale contracts recorded.....	1006
Conditional sales, when void.....	1006
Persons defacing trade marks or identifying marks when encumbered with mortgage, conditional sale contract, penalty.....	1061
See Intangible Personal Property	

PERSONNEL BOARD

Civil service system, counties 200,000 or more population.....	310-28, 542
--	-------------

PERSONNEL BOARD, STATE

See Merit System Act

PERSONNEL DEPARTMENT

Appropriation.....	418
Pension and relief fund certain counties.....	798
See Retirement System	

PERSONNEL DEPARTMENT, STATE

Board.....	69
Created.....	69
Director.....	69, 765

PERSONS, ESTATES

Administration	53-55
Disposition and distribution	53
Presumed to be dead on account of absence of seven or more years	53
See Administrations of Estates	

PETROLEUM GASES

Application for permit to engage in sale, bond	970
Sale and installation, containers, equipment for storage, transportation, use, for purpose providing gas for industrial, commercial and domestic use, bond posted	970
Superintendent of Insurance may prescribe rules and regulations for installation and sale, storage, transportation	970

PHOTOGRAPH MACHINE

Indictments and documents recorded	509-12-14
--	-----------

PHOTOSTAT MACHINE

Indictments and documents recorded	509-12-14
--	-----------

PHYSICIANS

Examinations	167
Practice chiroprody, code section amended	600

PICKWICK CAFE, INC.

Relief for gross receipt taxes erroneously paid	1033
---	------

PIERCE, JUNIUS J. and J. D. JOLLY

Appropriation	348
---------------------	-----

PITTMAN-ROBERTSON ACT

Consent of State to cooperate with United States Department of Agriculture in restoration wildlife in compliance with Pittman-Robertson Act, restoration game, fish, forests, parks	803
---	-----

PLANNING COMMISSION, STATE

Appropriation	418, 474
Establishment, advertising, travel, information, tourist and industrial development division	476
Matching of funds	475
Membership, act amended, salary, duties	96, 472
Proceeds excise tax lubricating oil tax covered into	508

PLANTS

Misdemeanor to cut	333
See Factories	
See Nurserymen	

POLICE DEPARTMENT

Period of time within which may reorganize under civil service regulations, act amended, cities 20,000 to 50,000 population	44
---	----

POLICEMEN

Retirement Class "C" cities	832
-----------------------------------	-----

POLICEMEN'S AND FIREMEN'S RETIREMENT FUND

Authority, board of trustees	132
Board of Trustees, Class "D" cities	131, 133
Bond of secretary-treasurer	132
Moneys paid into	133

INDEX GENERAL ACTS OF REGULAR SESSION

1219

POLICEMEN'S AND FIREMEN'S RETIREMENT FUND—Continued	
Record of proceedings kept.....	132
Retirement Class "C" cities.....	832
Retirement Fund.....	132
Reward money.....	133
Secretary-treasurer, Board of Trustees, duties.....	132
See Firemen's and Policemen's Retirement Fund	
Trustees	132
POLICEMEN'S PENSION AND RELIEF FUND	
Appropriation when fund not sufficient.....	926
Deductions from pensions of retired members.....	926
Hearings	928
How obtained and managed.....	926-7
Pension board.....	927
Personnel director secretary of board.....	927
POLITICAL PARTIES	
Act providing for voting machines amended to provide that em- blems of political parties shall be shown on machines.....	989
Membership in any national, state or local committee shall not dis- qualify holding position under county wide civil service system, certain counties	863
POLL TAX	
Exemptions	776
POOLE-LANGLEY BILL	
Joint resolution designating S. B. 314 as.....	684
POPULATION CENSUS	
Date for a reclassification under any law requiring classification based on Federal Decennial population census.....	388
POWER DISTRICT	
Engaged in business of furnishing electric service.....	405, 554
See Electric Service	
PRACTICE, PRIVATE	
Assistant attorneys general prohibited.....	94
PREMIUMS	
Legislature opposed to passage of bill prohibiting issuance of prem- iums by manufacturers of goods, joint resolution.....	957
PRIMARY ELECTIONS	
Date	823
Date State executive committee shall meet for canvassing and tab- ulating votes	823
Election officers, how selected.....	929
Second primary, date held.....	823
See Voting Machines	
PRINCIPAL	
Bonds	902
See Uniform Principal and Income Tax	

PRISONERS

Duties of State Department Public Welfare with reference to children and families of.....	120, 130
Examination and treatment for diseases.....	369
See Corrections and Institutions, State Department	

PRISON INSPECTOR, STATE

Powers, functions, duties transferred to State Department Corrections and Institutions.....	120
---	-----

PRIVILEGE LICENSES

Transporting and distributing tobacco products.....	1059
---	------

PRIVILEGE TAX

County license sale of automobiles, trucks.....	497
Motor bus terminals.....	1089
Motor carriers.....	1089
Motor tractors.....	329
Payment of taxes.....	18
Return, when made.....	21
Sale of automobiles, when more than one place of business.....	497
Sale of automobiles when no established place of business.....	497
Sales.....	17
See Licenses	

PROBATE

Wills not propounded for probate within twelve months from death of testator inoperative and void as to purchasers, mortgagees of property.....	45
---	----

PROBATE COURTS

General equity jurisdiction conferred concurrent with that of circuit courts, in equity, in administration of estates.....	1000
May appoint administrators estates persons presumed to be dead on account of seven or more years' absence.....	53-55
Order of removal of administration of estates of persons of unsound mind.....	168
See Judge of Probate	
Suspension of sentences, appointment probation officers, supervision parolees.....	431

PROBATION

Apprehension in receiving states, parolees.....	432
Cases continued.....	435
Conditions of probation.....	436
Defendants discharged.....	437
Duty receiving state with reference to parolees.....	432
Extradition waived.....	432
Investigation by probation officer.....	435, 436
Payment of court costs where sentence suspended.....	437
Procedure on conviction in inferior court.....	434
Provision for release and supervision of persons whose sentences are suspended.....	437
Powers probation officers.....	436
Probation docket.....	434
Probationers and parolees residing in other states.....	432
Re-arrest and commitment of probationers.....	437
Reports and records not available to public.....	437
Request for benefits.....	434

PROBATION—Continued

Revocation probation.....	437
See Pardons and Paroles, State Board	
See Suspension of Sentence	
Suspension of execution of sentence in criminal cases.....	434
System for persons convicted of crime.....	434-438

PROBATION AND PAROLE

Appeals.....	934
Arrest of defendants in other states.....	935
Arrests of probationer or parolee without warrant.....	934
Payment of fines.....	935
Probation and suspension of executions of sentences.....	933
Revocation.....	934
System regulated.....	933
Violations of conditions.....	934

PROBATIONERS

Apprehension in receiving states.....	432
Case pending in receiving state, cannot be retaken by sending state before consent.....	432
Duty of receiving state with reference to.....	432
Extradition waived.....	432
Residing in other states, provision.....	432
See Probation	

PRODUCER

See Fair Trade Act

PROFITEERING

Joint resolution urging against price raising at expense of people on account of war.....	553
---	-----

PROPERTY

Acquisition by counties.....	507
Adjustments of assessments.....	184, 187
Adjutant General custodian.....	778
Boards of Equalization may fix time and place of hearing protests.....	831
Boards of Equalization to provide for inventory, exception, certain counties.....	524
Computing income of estates.....	880
Conditional sale contracts, recorded.....	1006
Conditional sales, when void.....	1006
Exempt of taxes of factories.....	529
Exemptions, sales tax.....	18, 499
Extension of redemption period.....	354
Held in trust not deemed to be located in this state for purposes of death taxation, because of trustee being domiciled in this State.....	965
Location for purposes of death taxation.....	965
Levy and collection of taxes cities 6500 to 15,000 population.....	67
Levy for failure to pay sales tax.....	24
Municipal corporations ad valorem tax rate limited, may levy and collect additional taxes.....	886
Municipal corporations may apply assessment and collection of taxes to sale of.....	67
Personal.....	97-108, 1006
Persons defacing trade marks or identifying marks when encumbered with mortgage, conditional sale contract, penalty.....	1061

PROPERTY—Continued

Protests of assessments.....	184
Reciprocal exemption from death taxation.....	965
Redemption within two years.....	354
Reduction of assessments when owned by state, town, city, county, church, organization.....	126
See Uniform Principal and Income Tax	
See Use Tax	
State Secondary Agricultural School Demonstration Farms sold....	881
System of assessing and collecting taxes, certain counties, act amended, providing for filing of protests to the valuation fixed by board of equalization.....	830
Tangible.....	96-108
Taxable situs for death taxation.....	965
Tax assessors commissions, act amended.....	467
Tax collectors commissions, act amended.....	466
Time extended for tax assessor to deliver copy assessments to Board of Review.....	831
United States and agencies taxable as other property and activities, exception.....	95
Unlawful for officers or employees of State to use for promotion or advancement of interest of candidate for nomination or election to public office.....	1031
Vacation of streets and alleys not to deprive owners of ingress and egress.....	110
Value fixed by Boards of Equalization.....	184

PROPERTY TAX RELIEF FUND

Appropriation from surplus income tax necessary for replacement of revenues lost by exemption of homesteads from state and ad valorem taxes.....	421
--	-----

PUBLIC BUILDINGS

Courts of county commissioners authorized to furnish public build- ings with office supplies, equipment.....	1028
---	------

PUBLIC CORPORATION

Alabama Public Schools Corporation.....	810
Portion excise tax on gasoline used for public corporation to con- struct public roads and bridges, act amended.....	2, 3

PUBLIC EDUCATION

Appropriation.....	399
Joint resolution requesting Congress to support legislation to provide opportunities for children.....	131
See Education	
See Public Instruction	

PUBLIC HALLS

Unlawful to assemble with other persons attired in foreign uniforms	987
---	-----

PUBLIC IMPROVEMENT

Assessments on property may be reduced when owned by state, county, city, town or organization.....	126
--	-----

PUBLIC INSTRUCTION

Commissioner directed to arrange for observance of Flag Week....	125
--	-----

PUBLIC LIBRARY SERVICE DIVISION

Amount appropriation State Board of Education may use for matching federal funds for.....	899
Director and employees.....	298
Division to report.....	299
Duties Director Department Archives & History.....	582
Duties, powers.....	298
Exceptions.....	299
In State Department of Archives & History.....	297
Library reports.....	299
Members executive board.....	298
Officers.....	298
Previous library laws.....	299

PUBLIC ROADS

Act making persons liable to work on, App. July 17, 1931, repealed.....	174
---	-----

PUBLIC SAFETY, DIRECTOR

Accident reports.....	308
Applications filed.....	308
Authorized to enforce provisions of act regulating business of selling used motor vehicles.....	989
Cancellation drivers' license.....	303
Certificate of examination and application for drivers' license forwarded by Probate Judge.....	301
Clerical assistance.....	307
Fines, forfeitures forwarded to.....	304
Revocation of drivers' license.....	304
See Drivers' Licenses	
See Highway Patrol	
To forward record of conviction of out of state drivers.....	303
To issue drivers' license.....	301
To promulgate rules and regulations for drivers' license.....	301, 308
Unencumbered balance highway patrol fund transferred to general fund.....	503

PUBLIC SCHOOL FUND

Appropriation.....	399
Warrant commission required to issue to Treasurer interest bearing warrants.....	232

PUBLIC SCHOOLS

Act authorizing and ordering election for levying tax on gasoline for maintenance and operation public schools certain counties, repealed.....	112
Management and control in Class "D" cities.....	46, 388

PUBLIC SCHOOL SYSTEMS

Act providing for consolidation administration and control of public school systems counties 75,000 to 100,000 population, establishing board of education, repealed.....	425
---	-----

PUBLIC SERVICE COMMISSION, ALABAMA

Appropriation.....	414
Hearing of proposal of sale of electric plant.....	405-6, 554
Motor vehicles stopping on highways, disabled or picking up passengers.....	1033
Motor carriers delinquent in paying mileage tax, certificates of public convenience and necessity revoked.....	1057

PUBLIC SERVICE COMMISSION, ALABAMA—Continued

See Alabama Public Service Commission

Terms and conditions of sale of electric plant approved by.....405, 554

Unlawful riding trains, busses or trucks.....349

Water works boards exempt from jurisdiction and regulation.....716

PUBLIC UTILITIES

Percentage of revenue paid into Policemen's & Firemen's Retirement Fund.....133

Section 3 of act protecting rights of public in matters involving, repealed, Peoples Public Service Attorney.....168

PUBLIC UTILITY PLANTS

Owned by municipalities, franchise.....842

PUBLIC WELFARE, COUNTY DEPARTMENT

Duty to deliver pension warrants.....398

PUBLIC WELFARE, DEPARTMENT

Salary.....33

PUBLIC WELFARE, STATE BOARD

Allocation.....129

Commissioner may create bureaus.....129

Proportion of expenditures for which grants made available.....129

To appoint commissioner State Department of Public Welfare.....128

To make grants-in-aid to county departments.....129

PUBLIC WELFARE, STATE DEPARTMENT

Administration of Federal funds.....129

Aims.....129

Allocation.....129

Amount collections sales tax to counties used for public welfare.....29, 930

Appropriation.....415

Case records.....129

Certificate issued.....129

Children of prisoners.....130

Commissioner may create bureaus.....129

Cooperate with pardon and parole authority.....130

Cooperate with State Department of Corrections and Institutions.....129

County departments.....129

Duties and powers of commissioner.....129

Duties with reference to children and families of prisoners.....121

Grants-in-aid by State Board.....129

List of unpaid pension warrants filed with.....685

Mental hygiene program.....129

Promotion of development of activities and agencies.....129

Proportions of expenditure for which grants made available.....129

Rules and regulations as to records.....129

Salary.....33, 140

Salary, commissioner, act amended.....128

See Old Age Assistance .

See Public Welfare, State Board

Shall deliver to county departments pension warrants.....686

State Board to appoint commissioners, act amended.....127

PUBLIC WORKS

Bonds issued to finance public works projects validated.....396

PUBLIC WORKS BOARD

Abolished	152
Functions and duties transferred to Department of Finance.....	152

PUMPS

Privilege license certain cities and towns, General Revenue Act of 1935, amended	968
--	-----

PURCHASERS

Acquire interest in property prior to time will propounded for probate and without actual notice of such will.....	45
Executors, of property of deceased persons against provisions of new will not propounded for probate within period of time.....	45
Protection provided on purchases.....	45

PURCHASES AND STORES, DIVISION

Established	157
Oath, Purchasing Agent.....	161
Purchasing Agent.....	157
Salary	161

RABIES

Confinement of dogs which have bitten human beings authorized.....	332
Disposition of dogs prescribed.....	332
Dogs to wear tags.....	331
Enforcement provision.....	330
Fees	331
Impounding of unlicensed dogs.....	332
Inoculation of dogs required.....	330
Inspector and deputies.....	330
Lost tags.....	331
Penalties	331
Terms defined.....	329
Veterinarian	330

RADIOS, AUTOMOBILE

License for sale.....	966
-----------------------	-----

RAILROAD COMPANIES

May acquire, own property, rights and franchises of persons or associations engaged in transportation.....	1019
May purchase or otherwise acquire motor vehicles, aeroplanes for transportation of passengers and property.....	1019

RAILROADS

Unlawful riding.....	349
----------------------	-----

RATING PROGRAM, EXPERIENCE

Joint resolution requesting Governor to appoint committee to review progress	966
--	-----

REAL ESTATE

Act authorizing State Land Commissioner to contract for investigation of sales of land for taxes, and secure sales, App. Sept. 13, 1935, repealed.....	6
Act providing for a more economical, convenient and uniform system of assessing and collecting taxes on, including enforcement of tax liens, certain counties, amended relating to notice of delinquency	264

REAL ESTATE—Continued	
Definitions	907
See Uniform Principal and Income Tax	
REAL ESTATE COMMISSION, ALABAMA	
Appropriation	414
Salary	33, 139
REAL PROPERTY	
Extension of redemption period	354
Redemption within two years	354
RECIPROCAL AGREEMENTS	
Agencies designated by State Crop Improvement Committee may recognize certifications of agencies in other states	1022
Between Department of Agriculture and Industries and other states whereby inspection certificates or permits may be granted nurserymen and dealers without payment of fee, provision	1007
For exchange of rights for operation motor vehicles	527
State Department of Revenue empowered to enter into, with other states, fair exchange of rights as to use of highways	1056
With other states for exchange of rights for operation motor vehicles in carrying gasoline	884
RECIPROCAL ARRANGEMENTS	
Employment	746
Reimbursements	746
RECORDED MORTGAGES	
Indebtedness presumed to be paid twenty years after final maturity, exception	347
RECORDER	
Board of Commissioners in cities operating under Commission Form of Government may elect	118
Duties	118
Election provided in cities 15,000 to 50,000 population	55
Powers cities 15,000 to 50,000 population	55
Salary cities 15,000 to 50,000 population	55
RECORDING	
Indictments and documents by means of photograph or photostat machine	509-12
RECORDS	
Cost of examination and audit by Department of Finance or Division, charged against funds or revenues of office, department, examined	597
Recording	509-14
Records and accounts municipalities, reimbursement	598
REDEMPTION	
Entry of warning, when deed recorded	354
Extension of redemption period	355
Redemption effected	355
Redemption price	355
Within two years of real property	355
REEMPLOYMENT	
Of persons under merit system when granted leave of absence to serve in armed forces of United States	1027

INDEX GENERAL ACTS OF REGULAR SESSION 1227

REFERENDUM

Submission, provided certain counties, election superintendent education, county solicitor, county treasurer.....	955
---	-----

REFORM SCHOOL FOR NEGROES

Appropriation	416
---------------------	-----

REFUND

Relief of Junius J. Pierce and J. D. Jolly, purchase price of tax certificate	348
---	-----

REGISTERS OF CIRCUIT COURTS

Constitutional amendment providing Legislature may fix, regulate and alter costs and charges of courts, fees, commissions, allowances and salaries to be charged or received by any county office of Morgan County, including method and basis of compensation, providing for salary, fees and costs to be paid into county treasury.....	386
Duties, recording documents.....	509-514
Fees satisfaction.....	109
Holding office as circuit clerk, salary, proposed constitutional amendment	896
Judges of Probate entitled to assess and collect same costs, fees and commissions as authorized to be assessed and collected by, in administration of estates	1000
Legislature may fix, regulate and alter fees, commissions, allowances and salaries, and method or basis of compensation, to be charged or received by tax assessors, tax collectors, probate judges, circuit clerks, sheriffs and registers of equity courts, right to place on salary, in the counties of Etowah and Cherokee, proposed constitutional amendment.....	1034

REGISTRARS, BOARD

Act fixing salary, election clerk-ex-officio, certain counties.....	142
---	-----

RELIEF ACTS

John C. Burns	1050
Cunningham, C. C., for damage to automobile on state highway...	1060
John W. Daniel.....	802
Jacob Laagar for injuries.....	1030
Sam Little	1030
Pickwick Cafe, Inc.....	1033
Junius J. Pierce and J. D. Jolly.....	348

RELIEF FUND

See Military Code amended

REMAINDERMEN

Apportionment of receipts and expenses.....	902
See Uniform Principal and Income Tax	
Using part of principal.....	905

RENT

See Uniform Principal and Income Tax

RENTALS

On housing projects sufficient to pay obligations and administrative expenses	981
---	-----

REPORTS

Printing, reprinting and publishing..... 559

RETAILER

See Fair Trade Act

RETIREMENT

Enlisted men..... 780

RETIREMENT FUND

See Teachers Retirement System

RETIREMENT SYSTEMS

Administration..... 764
 Annual meeting..... 766
 Benefits..... 767
 County contribution..... 767
 Date of establishment..... 763
 Death of members..... 768
 Definitions..... 762
 Donations..... 769
 Effect of retirement..... 764
 Employee's retirement system..... 763
 Employment pensioned members..... 769
 Funds exempt..... 769
 Funds invested in bonds of United States Government, state or
 county..... 766
 Future employees..... 764
 Investment of funds..... 766
 Legal advisor..... 765
 Medical advisors..... 765
 Membership..... 764
 Membership after termination of service..... 768
 Method of financing..... 766
 Oath of office..... 766
 Pension Board..... 764
 Periodic valuations..... 766
 Present employees..... 763
 Reexamination of disabled members..... 768
 Report of county officials..... 764
 Reports..... 765
 Retirement for disability..... 767
 Retirement for superannuation..... 767
 Retirement system in populous counties..... 762
 Rules and regulations..... 765
 See Teachers Retirement Systems
 Service credit..... 764
 Secretary and Board members expense..... 765
 Treasurer of funds..... 766
 Vacancy..... 765

REVENUE

Amount paid out as dividends on withdrawable shares deducted
 from net income of credit unions for excise tax..... 56
 Excise tax on tobacco products..... 538

REVENUE—Continued

Proceeds excise tax on lubricating oil tax, applied to credit State Highway Patrol Fund, and State Planning Commission.....	293, 508
See Commissioner of Revenue	
See Department of Revenue, State	
See Revenue Act of 1935, General	
See Sales Tax	
See Use Tax	

REVENUE ACT OF 1935, GENERAL, AMENDED

Credit unions, computation, levied by.....	56
Portion of excise tax on gasoline used for corporation organized to construct public roads and bridges, amended.....	2, 3
Proceeds excise tax levied by Schedule 138.1, Sec. 348 Ch. 1 of Art. XIII, on lubricating oil tax, applied to credit state highway patrol fund, Sec. 1, App. Mar. 1, 1939, amended to include State Planning Commission.....	293, 508
Schedule 16, Article XIII, Chapter 1, sale of motor vehicle accessories, automobile radios, parts, batteries, tires.....	966
Schedule 20, Article XIII, Chapter 1, license on battery shops for repairing, recharging and selling batteries.....	967
Schedule 67, Article XIII, Chapter 1, privilege license on gasoline filling stations and pumps.....	968
Schedule 133 Sec. 348 Art. XIII, relating to license street fairs, carnivals.....	515
Schedule 154 Art. XIII Ch. 1 Sec. 348, amended Feb. 2, 1937, relating to vending machines.....	519
Schedule 156.11 Ch. 4 Art. XIII, distribution proceeds excise tax on gasoline.....	792
Schedule 158.10 Section 348, license on motor tractors, exception, amended.....	329
Schedule 158.10 Sec. 348, Art. XIII Ch. 6, relating to motor tractors.....	528
Schedule 158.11 Ch. 6 Art. 13, relating to trailers, semi-trailers.....	533
Schedule 158.14 of Section 348, subsection (b) pertaining to license tags on motor vehicles.....	978
Schedule 158.17 Section 348, due date motor vehicle, licenses.....	364
Schedule 158.15 Art. 13 Ch. 6 Revenue Act 1935 motor vehicles registration.....	527
Schedule 158.19 Ch. 6 Article XIII relating to motor vehicles and trailer licenses.....	518
Schedule 159, Section 348, Section 16, Article XIII, relating to transporting and distributing tobacco products.....	1058
Section 3, Article 1, amended Mar. 26, 1936, relating to factories, plants.....	529
Section 16, Schedule 159, Section 348, Article XIII, relating to transporting and distributing tobacco products.....	1058
Section 22 Tax Assessors' commissions.....	467
Section 161 Tax Collectors' commissions.....	466
Section 201, assessment, equalization and collection taxes, sale of property.....	67
Section 345.18 subdivision 4, income estates.....	880
Section 345.28 deductions allowed.....	521
Section 346.1, subsections (2), (4) (b), and 5, Ch. 1, Article 12, Interest, bad debts, financial institutions.....	496
Section 346.5 payment and distribution excise tax.....	517
Section 348, Schedule 12, automobiles, trucks, tractors, resale.....	497

REVENUE ACT OF 1935, GENERAL, AMENDED—Continued

Section 348, Schedule 133, Art. XIII, relating to license street fairs, carnivals	515
Section 348, Schedule 154, Art. XIII Ch. 1, amended Feb. 2, 1937, vending machines	519
Section 348, Schedule 156.11, Art XIII, Ch. 1, distribution proceeds excise tax on gasoline	792
Section 348, Schedule 158.10, license on motor tractors, exception, amended	329, 528
Section 348, Schedule 158.11, Ch. 6, Art. 13, relating to trailers, semi-trailers	533
Section 348, Schedule 158.14, subsection (b), pertaining to license tags on motor vehicles	978
Section 348, Schedule 158.15, Art. 13, motor vehicle registration	527
Section 348, Schedule 158.19, Art. 13, motor vehicle and trailer licenses	518
Section 348, Schedule 158.17 due date motor vehicle licenses	364
Section 348, Schedule 159, Section 348, Article XIII, relating to transporting and distributing tobacco products	1058
Section 350 (b) Article 14 Ch. 1 Act App. July 10, 1935, not to apply to license or privilege tax, sales	18

REVENUE, COMMISSION

Corporation formed to assist county and city boards education to pay teachers salaries known as Alabama Public Schools Corporation	811
Ex-officio Land Commissioner	3
Names for membership on County Board of Equalization submitted to	178-9
See County Board of Equalization	

REVENUE, GENERAL

Act providing for general revenue, use tax, App. Feb. 28, 1939, amended, relating to disposition of taxes, fees	503
Act providing for tax on fuel and supplies aboard ships, Approved February 8, 1939, exempting	170
Exemptions	498
Proceeds excise tax on lubricating oil credited to State Highway Patrol Fund	293
Sale of poultry, livestock, act App. Feb. 8, 1939, amended	228
Schedule 158.10 Section 348, App. July 10, 1935, license on motor tractors, exception, amended	329
Section 350 (b) Art. 14, Ch. 1 Act App. July 10, 1935, not to apply to license or privilege tax, sales tax	18
See Motor Fuels	
See Sales Tax	

REVENUE, STATE DEPARTMENT

Additional amount of residue of excise tax for Alabama State Highway Corporation	41
Administration of Sales Tax Act	27
Agents for sales of tangible personal property register with	100
Amount sales tax due	22, 23
Application by factories for exemption taxes	529
Assessments, notification by registered mail	23
Authorized to prepare claim against distributor or storer of motor fuels, delinquent in payment, excise taxes	962
Bond of itinerant vendors of personal property filed with	26

REVENUE, STATE DEPARTMENT—Continued

Collection mileage tax	1051-57
Commissioner of Revenue.....	1, 2
Created	1
Delinquent taxes, how collected.....	107
Discount	29
Evasion attempted in payment of sales tax.....	25
Forms of statements on motor fuels furnished by.....	960
Levy on property of person against whom tax for sale or withdrawal of motor fuels is levied, sale.....	962
Make returns for delinquent taxpayer.....	22, 23
May appoint agents to investigate provisions of sales tax act.....	27
May examine taxpayers.....	24, 26
Motor carriers delinquent in paying mileage tax, certificates of public convenience and necessity revoked.....	1057
Non-resident operators motor vehicles making trips, may secure permit from.....	527
Notice of engaging in sale or withdrawal of motor fuels to, bond.....	961
Office legal counsel created.....	5
Permit for purchase, storage and use of motor fuels.....	960
Portion excise tax on gasoline used for Alabama State Highway Corporation	41
Reciprocal agreements with other states, fair exchange of rights as to use of highways.....	1056
Reciprocal agreements for exchange of rights for operation motor vehicles	527
Reciprocal agreements with other states for exchange of rights for operation motor vehicles carrying gasoline.....	884
Remission of taxes to factories.....	529
Salary	33, 139
Sale of motor fuels permitted without liability for tax levied when made to licensed user, distributor or storer who has obtained permit	960
See Department of Revenue, State	
See Sales Tax	
Shall ascertain nature of business and names of county applicant desires to transport tobacco products.....	1059
Shall not divulge amount of gross receipts, sales.....	27
Sheriff shall make formal demand on bonding company of delinquent persons for tax for sale or withdrawal of motor fuels.....	962
Statements of gross sales to.....	20
Statements of total sales and withdrawals of motor fuels made to, penalty for failure to make.....	959-60
To notify delinquent distributors and storers of motor fuels.....	961
Use tax payable to.....	107

RIOTS

See Military Code amended

ROAD DUTY

Act making persons liable for, App. July 17, 1931, repealed.....	174
Members National Guard exempt.....	776

ROAD PATROLMEN

Act providing for employment, discharge and compensation, certain counties, repealed	465
--	-----

ROAD, PUBLIC

Streets or alleys use as, to be vacated, assent of governing body.... 110

ROADS AND BRIDGES

Construction 39, 44
 Duty county engineer 869
 Governing bodies counties may hire state convicts to work on public roads and bridges 534
 Officers and employees State Highway Department authorized and empowered to go across lands individuals or corporations to make survey necessary for construction highways, roads and bridges, and to secure samples of land 363
 Proceeds of excise tax on motor fuels to credit of, for public and toll roads and bridges 961
 See Alabama State Highway Corporation
 See Public Roads

RURAL ELECTRIFICATION AUTHORITY

Act authorizing creation repealed 438

SAFETY

Employees Industrial Relations 245
 Prevention use dangerous machines, tools, equipment, structures.... 245
 See Drivers' Licenses
 See Public Safety, Director

SALARIES

Certain county officers Dallas County, proposed constitutional amendment 896
 Exemptions from levy under writs of garnishment 396
 Governor authorized to fix, for officers and employees executive departments 33, 139
 Officers and employees of state, when payable 709
 United States officers or agents subject to income tax of state 94
 Unpaid salaries payable upon expiration of term or employment of officer or employee 709

SALES

Act authorizing State Land Commissioner to contract for investigation of sales of real estate for taxes, and secure sales, App. Sept. 13, 1935, repealed 6
 Exemption of gross proceeds from sale of fluid milk 228
 Of commodity at minimum stipulated price 36
 Poultry and livestock 228
 See Fair Trade Act
 Tax on fuel and supplies aboard ship, revenue act, App. Feb. 8, 1939, exempting 170

SALES TAX

Administration of act vested in State Department of Revenue, expenses for administration 27, 930
 Amount collections to counties, how used 28
 Amount due 22, 28
 Amusement 17, 18
 Amusement devices, parks 17, 18
 Appeals 23
 Application of surplus in income tax for loss of revenues by exemption of homesteads 931
 Assessments, notification by registered mail 23, 26

SALES TAX—Continued

Athletic contests, conducted under auspices educational institutions	17, 18
Billiards	17, 18
Bond itinerant vendors of personal property	26
Bowling alleys	17, 18
Boxing and wrestling exhibitions	17, 18
Credit collections	21
Definitions	16
Discount allowance	29
Evasions	25
Exemption of homesteads, replacement	28, 930
Exemptions	18, 170, 498
Expenses for administration of act	28, 930
Failure delinquent taxpayer to appear or testify, penalty	24, 25
Failure to collect	27
Failure to make reports, penalty	21, 22
Fuel and supplies	170
Games	17, 18
Golf courses	17, 18
Gross proceeds credit sales when included	21
Interest	22
Invoices, books preserved	21
Levy on property, when made	24
Lien upon property	24, 25
Moving picture shows	17, 18
Musical devices	17, 18
Opera houses	17, 18
Overpayment refunded or credited	22
Penalties	21, 22
Penalty, when waived	22
Personal property	16
Places of exhibition, amusement or entertainment where admission charged	17, 18
Pool rooms	17, 18
Poultry and livestock	19, 228, 529
Prize fights	17, 18
Public bathing places	17, 18
Public dance halls	17, 18
Race tracks	17, 18
Records of sales	21
Redemption of tokens	30
Refunds	22, 23, 28
Refusals to allow examination of records, penalty	22
Report of cash sales	21
Report credit collections	21
Returns made	21
Returns not divulged by State Department or employees	27
Rules and regulations for making returns	28
Sale of automotive vehicles	17, 18
Skating rinks	17, 18
State Department may examine taxpayers	24, 25
State Department to make returns	22, 23
Statement to Department of Revenue	20
Successors in business, returns made	26
Taxpayers selling business, return made	26
Theatres	17, 18

SALES TAX—Continued

Time extended.....	21
Tokens	30
Vaudevilles	17, 18
Vendors, failure to make return, bond forfeited.....	26
Violations	27
When levied to constitute debt due State.....	24
When payable.....	20
Wrestling matches.....	17, 18

SAVINGS AND LOAN ACT

Amendments	621, 669
Annual meetings members.....	663
Appointment of receiver.....	654
Appraisal of real estate.....	627
Approval of certificate of incorporation and by laws.....	652
Approval of change of location of office.....	652
Availability of name proposed to be used.....	621
Books, records and accounts.....	627
Bonds directors, officers and employees.....	626
Bonus and bonus reserve.....	637
Bonds, where filed.....	626
Branch officers and agencies.....	652
Brokerage, business and purchase and sale of loans.....	660
Building and loan associations under provisions.....	672
By-laws	618, 620, 652, 661, 663
Capital and ownership.....	628
Cash bonus.....	637
Certain words in name of corporation prohibited.....	621
Certificate of approval of incorporation.....	618, 652, 661
Certificate of approval of incorporation filed with Secretary of State	618, 652, 661
Certificate of incorporation.....	620
Chairman Board of Directors and president.....	667
Change of name filed with secretary of state.....	621
Change of name or office.....	622
Committees	665
Compensation of directors.....	665
Conformity to law.....	623
Conservatorship; receivership.....	654
Conversion into federal savings and loan association.....	640
Conversion into state-chartered association.....	641
Corporate name and offices.....	621
Corporate offices.....	622
Copy dissolution forwarded to Federal Savings and Loan Insurance Corporation.....	649
Copy reorganization plan forwarded to Federal Savings and Loan Insurance Corporation.....	649
Creditor or investor in building and loan associations or savings and loan associations may receive amount due.....	674
Definitions	616
Deposits and definite rate securities forbidden.....	632
Directors and officers.....	625
Dissolution	644, 646
Dividends	630
Duplicate membership certificates.....	632
Election directors.....	661, 664
Examination into affairs of association.....	652

SAVINGS AND LOAN ACT—Continued

Examiners	648
Exemption from "Blue Sky" Laws	658
Expense fund for organization	618
Fees and taxes	658
Fiscal year	669
Forfeiture for non-use	623
Foreign associations may not operate	658
Forms	661
Forms of membership certificate	629
Funds of liquidated building and loan associations or savings and loan associations transmitted to treasurer by savings and loan commissioner	674
Incorporation procedure	618
Liquidation, notification to Secretary of State	654
Lien on accounts	637
Loan expenses	636
Loan plan and expenses	635
Long term bonus	638
Management	624
Meetings of the Board of Directors	664
Membership certificates	668
Merger	642
Merger building and loan associations	672
Minors, married women, joint owners and fiduciaries	659
Modification of requirements in discretion Commissioner	673
Mortgage brokerage business prohibited	660
Merger agreement	669
Non-qualifying building and loan associations	673
Notice of meetings of members	663
Officers and employees	666
Operating contracts	658
Organization meeting	621
Ownership of accounts	628
Participating reserve	645
Petition for certificate of incorporation	661
Power commissioner to extend period for qualification and con- version	673
Powers	633
Public officers as members	658
Qualification building and loan associations as savings and Loan associations	672
Redemption	631
Reorganization	644
Reports and examinations	652
Repurchase	630
Reserves	629
Resignation and removal of directors	665
Rights of members	624
Sale of mortgages	660
Savings and Loan Bureau	648
Savings and Loan Board	650
Seal	668
Short term bonus	638
Special meetings of members	663
Subscriptions to capital of proposed association, graduated scale	619
Supervision	648

SAVINGS AND LOAN ACT—Continued	
Supervisory power of Commissioner.....	649
Transfer of assets.....	639
Unclaimed funds of associations in liquidation.....	648, 673
Undivided profits.....	630
SAVINGS AND LOAN BOARD	
Appointment members, vacancies.....	650
See Savings and Loan Act	
SAVINGS AND LOAN COMMISSIONER	
Certificate of approval of incorporation of association.....	620
Certificate of incorporation.....	620
Incorporation savings and loan associations.....	616
See Savings and Loan Act	
Shall issue certificates of incorporation.....	620
SCALES PUBLIC	
Provided, code section amended.....	38
SCHOLARSHIPS, FREE	
Discontinuance, funds returned.....	980
Last year of tenure scholarship to be loan scholarship to be repaid to United Daughters of Confederacy.....	980
To certain schools upon donation by United Daughters of Confed- eracy sum for securing, act amended.....	979
SCHOOL BUILDINGS	
Acquisition lands by counties for.....	507
Inventory	586
SCHOOL BUSES	
See Alabama Motor Carrier Act of 1939	
SCHOOL CODE 1927 AMENDED	
Section 423. Authority to cooperate with Federal Government.....	721
Section 424. Legislative appropriation for illiteracy and adult edu- cation programs and classes.....	721
Section 522. Corporate powers of institute.....	516
SCHOOL CODE OF 1927 REPEALED	
Section 630. Sale of School lands.....	953
Section 631. When Inhabitants Must Consent to Sale.....	953
Section 632. When Resale Authorized.....	953
Section 633. Proceeds From Sales; Disposition Of.....	953
Section 634. Notes for Purchase Price Held by Superintendent.....	953
Section 635. Sales of School Lands; When Made: Terms of sale.....	953
Section 636. Reserved Lots of School Lands.....	953
Section 640. Certificate of Purchase; When Given.....	953
Section 641. Certificate of Purchase; Conditions of.....	953
Section 642. Title to School Lands; When Reverts in State.....	953
Section 643. Certain Moneys Added to Sixteenth Section Fund.....	953
Section 644. When Patent Issued.....	953
Section 646. No Patent Issued Without Certificate of Superin- tendent.....	953
Section 648. Agents May Be Appointed to Map School Lands.....	953
Section 649. Collections On School Lands Paid Into Treasury.....	953
Section 651. School Lands May Be Leased.....	953
Section 653. Board of Compromise of School Lands.....	953

SCHOOL DISTRICT ELECTIONS

Held for the purpose of authorizing a special tax for school purposes, when notice not properly published, ratified.....	177
--	-----

SCHOOL FINANCING

Regulated	610
-----------------	-----

SCHOOL FUND, PUBLIC

Cost of examination of records and accounts by Department of Finance or division charged against funds of officer or department examined.....	597
Replacement of revenues lost by exemption homesteads.....	930
See Public School Fund	

SCHOOLS

Act providing for free scholarship in certain schools donated by United Daughters of Confederacy, amended.....	979
Appropriation for extension of terms.....	360
Appropriation for operation.....	399
Appointment, compensation, duties election officers.....	758
Ballots for election, result.....	758
Budget system established.....	610
Consolidation administration city and county school systems, additional authority.....	425, 756
Cancellation employment contract.....	759
Consolidation procedure.....	757
Contract of employment of teachers, salary.....	759
Control of educational matters.....	557
Corporation formed to assist county and city boards of education to pay teachers salaries known as Alabama Public Schools Corporation	813
Department of Conservation to have management and supervision public lands.....	949
Election county board of education, consolidation school systems.....	756
Exchange and sale of school lands.....	949-51
Funds appropriated for furnishing text books.....	899
Governing body may dissolve consolidation and administration county and city schools within corporate limits certain cities.....	557
Lands may be sold or exchanged for other lands.....	951-2
Last year of tenure scholarship to be loan scholarship.....	980
Management and control cities 40,000 to 67,000 population.....	836
Order of election, notice.....	757
Property	836
Rent and lease of lands.....	949
Request for referendum.....	757
School census.....	836
See Budget System	
See Teachers Retirement System.....	574
Service Status teachers	759

SCHOOL WARRANTS

Call of warrants.....	338
Elections	344
Elections validated.....	345
Execution of warrants.....	342
Exchange	334
Exchange and delivery of refunding warrants.....	340
Exemption from taxation.....	343

SCHOOL WARRANTS—Continued

Fiscal year.....	343
Form of warrants.....	341
Indebtedness for the payment of current expenses.....	345
Interest rate.....	339
Issue to be approved by State Superintendent of Education in accordance with rules and regulations State Board of Education..	337
Limit on issuance.....	343
Maturity of warrants.....	338
Outstanding warrants validated.....	344
Payable solely from proceeds of special tax.....	335
Payment of incidental costs.....	342
Place and method of payment.....	339
Preference and payment of warrants and care of fund.....	335
Preferred claims.....	336
Purposes for which issued.....	334
Record of warrants.....	343
Sale of warrants.....	339
Sales at par or less.....	340
Security.....	336
Trust fund.....	336
Validity of warrants.....	343
Warrants may be validated.....	343

SEALS

For covering numbers on secret ballots.....	361
Furnished as part of election supplies.....	361
Shall not be removed or broken, exception.....	361

SECONDARY AGRICULTURAL SCHOOL DEMONSTRATION FARMS

Property, livestock, equipment and farm produce sold.....	881
---	-----

SECRETARY OF STATE

Alabama Public Schools Corporation.....	810
Application of discontinuance of soil districts.....	217
Application to become corporate body of Soil Conservation District	208
Appropriation.....	412
Certain duties transferred to Director of Finance.....	152
Certificates of corrections of land records.....	953
Certificate of incorporation to commission organized to construct highway bridges, approaches and appurtenances.....	938
Certificate of incorporation to corporation formed to assist county and city boards of education to pay teachers salaries known as Alabama Public Schools Corporation.....	810, 811, 813
Certificates of result of county elections on use of voting machines furnished.....	445
Correction certain land records.....	952
Declaration of director of Industrial Relations to Governor of readiness to assume duties filed with, contents.....	235, 236, 237, 251
Duplicate sets code furnished.....	1025
Duties with reference to electric cooperatives.....	371-386
Duties with reference to savings and loan corporations.....	618, 621, 640, 642, 644, 646, 648, 654
Duty to take receipts for sets of code distributed.....	1026
Number of sets of code distributed upon approval of Governor.....	1025
Record kept of proof of errors of omission and commission.....	953

SECRETARY OF STATE—Continued

Relieved of responsibility and liability for codes and other books placed on desks of members of House and Senate.....	1090
Rules and regulations board of appeals Department of Industrial Relations filed with.....	247
Sale of code, price.....	1025
Secretary State Board of Adjustment, salary.....	602
See Alabama State Highway Corporation	
See Savings and Loan Act	
Shall distribute Code of 1940.....	1023
Sets of code returned to.....	1025
Shall furnish supplies and law books to Code Commission.....	15, 172, 461
Shall have printed copies of report of Joint Committee created to read manuscript of Code.....	172
Shall issue certificate of dissolution soil conservation district.....	218
Shall issue certificate of organization of Soil Conservation District.....	209
Shall maintain register of sets of books distributed.....	1026

SECURITIES

Exemption of sale of accounts of savings and loan associations....	658
Income on obligations of United States or agencies shall be included in gross income in determining income taxes.....	93

SECURITIES COMMISSION

Appropriation.....	414
Monies accruing to or collected by or through Commission covered into state treasury.....	505

SECURITY RECEIPTS

Absolute title.....	964
Defective title.....	964
Negotiability.....	964
Provisions of act, when applicable.....	964
Title may be transferred.....	964
Title of holder.....	964

SEED

See State Crop Improvement Committee

SENATE

Offices to remain open during recess.....	359
Secretary of Senate and Clerk of House instructed to procure proper medical kits available for emergency.....	956

SENTENCES

Probation or appearance bond.....	933
See Probation and Parole	
Suspension juvenile and domestic relations court.....	933

SERVICE, DIVISION

Chief.....	159-60
Established.....	159-60
Oath.....	161
Salary.....	161

SERVICES, STATE

See Merit System Act

SERVICE OF PROCESS

Secretary of State shall act as statutory agent for foreign corporations	978
--	-----

SETTLEMENT

Reduction of bond pending final settlement, administration of estates	883
---	-----

SHERIFF

Act providing for salaries and allowances certain counties, repealed	116
Appointment deputy counties 34,000 to 35,000 population, compensation, bond	682
Collection charges, court, fees, commissions, allowances.....	896
Constitutional amendment, proposed, authorizing Legislature to fix, alter, regulate fees, commissions, allowance and salaries, including method or basis of compensation to be charged or allowed sheriff of Mobile County, salary basis.....	581
Constitutional amendment proposed providing Legislature may fix, regulate and alter costs and charges of courts, fees, commissions, allowances and salaries to be charged or received by any county officer of Morgan County, including method and basis of compensation, providing for salary, fees and costs to be paid into country treasury.....	386
Feeding of prisoners.....	896
Fees, fines and forfeitures to be paid into treasury.....	581
Legislature may fix, regulate and alter fees, commissions, allowances and salaries, and method or basis of compensation, to be charged or received by tax assessors, tax collectors, probate judges, circuit clerks, sheriffs and registers of equity courts, right to place on salary, in the counties of Etowah and Cherokee, proposed constitutional amendment.....	1034
Process inferior courts shall run to any lawful officer of state and be served by.....	683
Salary, proposed constitutional amendment.....	896
Shall levy on all property of persons against whom tax for sale or withdrawal of motor fuels levied, sale.....	962
Shall make formal demand on bonding company of delinquent persons for tax for sale or withdrawal of motor fuels.....	962
Seizure of property belonging to state.....	778
State Toxicologist to cooperate with.....	585
To enforce rules and orders of Alabama Boxing and Wrestling Commission	707
To file with circuit clerk copy execution to levy on property delinquent sales tax payer.....	24
To serve summons for examination delinquent tax payer by state department of revenue.....	24

SHERIFFS, DEPUTY

Appointment counties 34,000 to 35,000 population, compensation, bond	682
Lodging and meals provided for jurors.....	92

SHIPS

Act providing for the general revenue amended exempting tax on fuel and supplies aboard.....	170
Factories, taxes remitted.....	529

SHRIMP

Boundaries where may be caught.....	889
License	889
License for shipping.....	891
Use of boats to catch.....	889
Weekly reports to Department of Conservation.....	889
When unlawful to be offered for sale.....	891

SHRUBS

Misdemeanor to cut.....	333
-------------------------	-----

SIMPSON-BROWN (Covington) bill

Joint resolution designating S. B. 468 as.....	900
--	-----

SINKING FUND

Appropriation of gasoline taxes and motor vehicle licenses to provide sinking fund on outstanding highway bonds, retirement renewal bonds and pay principal on Harbor Improvement bonds.....	986
--	-----

SINKING FUND COMMISSION

Abolished	151
Sinking Fund for retiring old bonded debt.....	151
Transfer of powers, functions and duties to Department of Finance.....	151

SLUM CLEARANCE

See Housing Authorities Law

SOCIAL SECURITY BOARD

Agreement for proration of salaries to employees Department of Industrial Relations.....	251
Director of Industrial Relations to conform to minimum standards.....	251
Funds allotted for old age assistance apportioned.....	696
See Industrial Relations Act of 1939	
See Unemployment Compensation Law 1935, amended	

SOIL CONSERVATION DISTRICTS LAW

Adoption of land use regulations.....	213
Application of discontinuance to Secretary of State.....	217
Application to Secretary of State to become corporate body.....	205
Appointment, qualifications and tenure of supervisors.....	210
Appropriation to State Soil Conservation Committee.....	219
Certificate of additional territory to district to Secretary of State.....	209
Certificate of dissolution.....	218
Contents of land use regulations.....	214
Cooperation between districts.....	216
Copies of land use regulations.....	214
Costs of supervisors complying with regulations for land use.....	216
Court's jurisdiction.....	216
Creation of Soil Conservation Districts.....	205
Definitions	203
Discontinuance of districts.....	217
Disposition of property of district.....	217
Enforcement of land use regulations.....	215
Exceptions of application of act.....	211
Failure of landowner to observe regulations.....	215
Legislative determinations, and declarations of policy.....	202
Ordinance to be proposed on land use regulations.....	215
Owners may file petitions that land use regulations be amended or repealed	214

SOIL CONSERVATION DISTRICTS LAW—Continued	
Performance of work under regulations by the supervisors.....	215
Petitions for additional territory within district.....	209
Powers of districts and supervisors.....	211
Referendum for submission of regulations.....	214
Referendum on creation of district.....	206
Secretary of State shall issue certificate of organization.....	209
State agencies to cooperate.....	216
State Soil Conservation Committee, appropriation.....	203, 418
Supervisors may comply with regulations for land owner.....	216
Termination of affairs of district.....	217
When referendum need not be held.....	209
SOLDIERS, SAILORS, WIDOWS, CONFEDERATE	
Pensions, payable monthly.....	685
Restoration name to pension roll.....	687
When dropped from pension roll.....	686
SOLICITOR, ASSISTANT	
In judicial circuits one county with more than two and less than nine circuit judges, appointed by circuit solicitor, duties, salary, term.....	423
Judicial circuits one county with more than two and less than nine circuit judges, act repealed.....	422
Office regulated.....	470
Office space, telephone service, stationery, stamps and equipment provided.....	1020
SOLICITORS	
See Circuit Solicitors	
See Circuit Solicitors, Deputy	
SOUTHERN INDUSTRIAL INSTITUTE	
Appropriation.....	507
SPANISH AMERICAN WAR VETERANS	
Erection monuments on grounds of the Memorial Building to mem- ory of Spanish American War Veterans and World War Veterans.....	1029
SPANISH WAR VETERANS ENCAMPMENT	
Appropriation.....	418
SPECIAL EDUCATIONAL TRUST FUND	
Amount collections sales tax to counties paid into.....	28, 930
Amount fees, taxes paid into, how expended.....	107, 503
Appropriation.....	404
Revenue from tobacco products paid into.....	541
Sales Tax.....	29
Use Tax.....	107, 503
SPECIAL JUDICIARY	
Appropriation.....	412
SPECIAL OFFICER	
Act creating office in certain counties repealed.....	117
SPECIAL TRUST FUND	
Monies covered into state treasury to credit of general fund.....	808

SPEED

Motor vehicles in municipalities 200,000 or more population, prescribed	56
Penalties violation, municipalities, 200,000 or more population.....	56

STATE

Act regulating use of motor vehicles owned by state and institution and motor vehicles for which fuel or tag furnished by State repealed	37
--	----

STATE AUDITOR

Duties with respect to prescribing route of travel for prisoners transferred to State Department of Corrections and Institutions	120
See Auditor, State	
Transfer of certain functions and duties to the Department of Finance	150

STATE BOARD OF ADMINISTRATION

Duties transferred to Director of Finance.....	151
President may become part of public corporation.....	39
See Alabama State Highway Corporation	
See Director of Finance	

STATE BOARD OF AGRICULTURE & INDUSTRIES

Agencies designated by State Crop Improvement Committee shall investigate violations	1023
Created	199
Duties of State Board of Agriculture transferred to.....	199
Membership, compensation.....	199

STATE BOARD OF EDUCATION

Appropriation for extension of school terms, apportionment.....	360
See Board of Education, State	

STATE CROP IMPROVEMENT COMMITTEE

Agencies may withhold certification from seed or plant part grower engaging in dishonest practices	1022
Agency may recognize certification of agencies in other states.....	1022
Agency must file information showing authorization by.....	1022
Certification	1021-2
Duty to designate agency of seed producers for setting certain standards, making requirements, and forms of and for certification of seed and plant parts of crops intended for propagation or sale	1021
Established, membership, term.....	1021
Evidence of authority of agency must appear on all seeds or plant parts	1022
Registration of official tag.....	1022
Seal, trademark	1022
Seeds and plant parts, tagged with official tag.....	1022
Unlawful to circulate evidence of certification without authority and approval of agency	1023

STATE DEPARTMENT OF COMMERCE

See Department of Commerce

STATE DEPARTMENT OF AGRICULTURE AND INDUSTRIES

See Agriculture and Industries, Commissioner

STATE DEPARTMENT OF REVENUE	
Commissioner of Revenue.....	1, 2
Created	1
STATE DOCKS ADVISORY BOARD	
Created, members.....	8
See Department of State Docks & Terminals	
Term	8
STATE DOCKS AND TERMINALS	
See Department of State Docks & Terminals	
STATE DOCKS COMMISSION	
Abolished	9
STATE FORESTS & PARKS	
Any portion of funds appropriated for fiscal year not used for acquisition of land for State Forests and parks used to carry out provisions of Section 989 Code 1923, as amended March 2, 1937	32
STATE GEOLOGIST	
See Geologist, State	
STATE HIGHWAY COMMISSION	
Salary	33, 139
STATE HIGHWAY DEPARTMENT	
Bond director.....	9
Created	9-10
Director, appointment.....	10
Director may become part of public corporation.....	39
Duties and authority.....	9
Excise tax on gasoline used for corporation organized to construct public roads and bridges, act amended.....	2-3
Expenses, director.....	10
Salary, director.....	10
See Alabama State Highway Corporation	
See Highway Department, State	
See Public Corporation	
STATE LAND COMMISSIONER	
Act authorizing commissioner to contract for investigation of sales of real estate for taxes and bid in for State and secure sales, Act App. Sept. 13, 1935, repealed.....	6
STATE NORMAL SCHOOL FOR COLORED STUDENTS	
See Property	
Tax certificate, relief of Junius J. Pierce and J. D. Jolly.....	348
STATE SOIL CONERVATION COMMITTEE	
Administrative officer.....	204
Bonds	203
Duties	204
Established	203
Expenses	203
Supervisors	204
STATE TAX COMMISSION	
Abolished	1

STATUTE OF LIMITATIONS

Foreign corporation withdrawing from state shall maintain statutory agent until statutes of limitations shall have run.....	976
Statutory agent designation revoked, secretary of state named, instrument filed	976

STATUTES

Codification	14, 172, 460
--------------------	--------------

STOCK LAW

See Local Option Stock Law	
When applicable.....	495

STORAGE

Excise tax.....	98
Exemptions	98

STORES

Lawful to remain open on Sunday to sell delicatessen products, certain cities.....	482
--	-----

STREETS

Distribution motor vehicle and trailer license taxes to cities and towns for construction.....	518
May be vacated by owners of land abutting in limits of municipality, assent for vacating must be obtained.....	110

SUBMERGED LANDS

Joint resolution petitioning Congress to refuse enactment of resolution or bill seeking to establish claim of Federal government to any title or interest in submerged lands or tidelands of Alabama	956
--	-----

SUMTER COUNTY

Relief of Sam Little for injuries.....	1029
--	------

SUNDAY

Lawful for delicatessen stores to remain open.....	482
--	-----

SUPERINTENDENT OF BANKS

Bond	648
Bond of deputy.....	648
Chief officer Banking Bureau.....	11, 294
Commissioner Building & Loan Board.....	11, 294
Commissioner Savings and Loan Bureau.....	648, 804
Duties transferred to Bureau of Banking of Department of Commerce	11, 294, 804
Examination banks.....	803
Member Banking Board.....	12, 294
Member Bureau of Building & Loan.....	11, 294, 804
Proceeds special tax deposited.....	336
See Savings and Loan Act	

SUPERINTENDENT OF EDUCATION, COUNTY

See Education, County Superintendents	
Submission referendum certain counties, election.....	955

SUPERINTENDENT OF EDUCATION, STATE

Annual budget submitted.....	610
Boards of education shall file application for approval of warrant issue with.....	337

SUPERINTENDENT OF EDUCATION, STATE—Continued

Corporation formed to assist county and city boards of education to pay teachers salaries known as Alabama Public Schools Corporation	811
Duties	586
Member Board of Control teachers retirement system	565
Proceeds special tax deposited	336
School lands may be sold or exchanged for other lands	951
See Budget System	
Shall not approve expenditure public funds for teachers salaries unless they hold certificates	611
Statement revenue derived from sale or lease of school lands made to	950-1
To approve issuance of warrants	337
To prepare records of warrants outstanding	343
To submit to corporation estimate amount needed to pay teachers salaries	812

SUPERINTENDENT OF INSURANCE

Actuary, bond	818
Amount of capital stock necessary for organization	502
Application for permit to engage in sale of liquified petroleum gas and installation of equipment filed with	970
Bond filed to engage in sale liquified petroleum gas and installation equipment	970
Chief officer Bureau of Insurance	12, 294
Copy articles of incorporation mutual aid, benefit and industrial corporations filed with, code section amended	502
Corporations furnishing plan of hospitalization, duties	710

SUPERINTENDENT OF INSURANCE—Continued

Duties transferred to Bureau of Insurance of Department of Commerce	12, 294
Employees Bureau	818
Examination insurance companies, payment expenses	819
Examiners	818
Ex-officio Fire Marshal	12, 294
May prescribe rules and regulations for installation of containers for storage, transportation, handling or utilization liquified petroleum gas for industrial, commercial and domestic use, bond posted	970
Method of ascertaining status of life insurance companies	821
Mode of incorporation mutual aid, benefit and industrial corporations without capital stock, code section amended	501

SUPERNUMERARY JUDGES

Tenure, duties, powers, compensation	477
--	-----

SUPERVISOR OF VOCATIONAL AGRICULTURE, STATE

Member State Crop Improvement Committee	1021
---	------

SUPPLIES

Unlawful for officers or employees of state to use state property for promotion or advancement of interest of candidate for nomination or election to public office	1031
---	------

INDEX GENERAL ACTS OF REGULAR SESSION

1247

SUPREME COURT

Appropriation	412
Clerk, salary, duties	558-9
Judges may become supernumerary judges	477
Salary marshal and librarian, code section amended	557

SUPREME COURT REPORTER

Salary, duties	558-9
----------------------	-------

SUPREME COURT REPORTS

Printing and publishing	559
Reprinting	559

SURPLUS

Portion of surplus of appropriation in general fund transferred to retirement fund	807
To credit of general fund in state treasury transferred to minimum program fund	599

SURVEYS

Authority of commission to construct bridges, etc., authorized to enter on land, waterways and premises, to make surveys, etc.	940
Officers and employees State Highway Department authorized to enter upon lands of individuals and corporations to make surveys for construction highways, roads and bridges	363

SUSPENSION OF SENTENCES

Circuit courts and courts of record may suspend execution of sentence and place persons on probation	434
Defendant discharged	437
Payment of court costs	437
Period determined by court	437
Provision for release and supervision of persons whose sentences are suspended	437
Rearrest for violations	437
Revocation of suspension of sentence	437
Suspensions of execution of sentence in criminal cases	434
When sentence not suspended	434

SWAMP AND OVERFLOW LANDS

Adjustment of claims	952
In Mobile County, confirming title to Creola Lumber Company	808
Leases, exchange and sale	950, 952
Patent	951-2
Supervision Department of Conservation	950

TAG

Act regulating use of State owned motor vehicles and for which fuel or tag furnished by State institution, repealed	37
Demonstration tags	497
License tags	497

TAXATION

Excise tax gasoline, distribution proceeds	792
Homesteads exempt	703
Poll tax exemptions	776
See Exemptions	
See Intangible Personal Property	
See Sales Tax	
System of assessing and collecting taxes, certain counties on real estate, act amended	830

TAX ASSESSOR

Act fixing compensation for assistants and, certain counties repealed	115
Assessment and collection of taxes, compensation	67
Collection charges court, fees, commission, allowances	896
Compensation employees, constitutional amendment	896
Commissions provided, General Revenue Act 1935, amended	467
Constitutional amendment proposed, providing Legislature may fix, regulate and alter costs and charges of courts, fees, commissions, allowances and salaries to be charged or received by any county officer of Morgan County, including method and basis of compensation, providing for salary, fees and costs to be paid into county treasury	386
Legislature may fix, regulate and alter fees, commissions, allowances and salaries, and method or basis of compensation, to be charged or received by tax assessors, tax collectors, probate judges, circuit clerks, sheriffs and registers of equity courts, right to place on salary, in the counties of Etowah and Cherokee, proposed constitutional amendment	1034
Preparation tax rolls	831
Salary, proposed constitutional amendment	896
See County Board of Equalization	
Shall deliver assessments to Board of Equalization	183
Time extended within which to deliver copy assessments to Board of Review	831

TAX CERTIFICATE

Relief of Junius J. Pierce and J. D. Jolly, purchase price refunded	348
---	-----

TAX COLLECTOR

Act fixing compensation for assistants, and, certain counties repealed	115
Assessment and collection taxes, compensation	67
Collection charges, court, fees, commissions, allowances	896
Commissions provided, General Revenue Act 1935 amended	466
Constitutional amendment providing Legislature may fix, regulate and alter costs and charges of courts, fees, commissions, allowances and salaries to be charged or received by any county officer of Morgan County, including method and basis of compensation, providing for salary, fees and costs to be paid into county treasury	386
Decree of sale	264
Fee for making sale against delinquent property owner	264
Legislature may fix, regulate and alter fees, commissions, allowances and salaries, and method or basis of compensation, to be charged or received by tax assessors, tax collectors, probate judges, circuit clerks, sheriffs and registers of equity courts, right to place on salary, in the counties of Etowah and Cherokee, proposed constitutional amendment	1034
Newspaper publication of delinquent taxes	264
Salary, proposed constitutional amendment	896
To furnish Probate Judge list of property on which taxes delinquent	264

TAX COMMISSION, STATE

Abolished	1
-----------------	---

TAXES

Act providing for a more economical, convenient and uniform system of assessing and collecting taxes on, including enforcement of tax liens, amended, relating to notice of delinquency	264
Distribution motor vehicle and trailer license taxes to cities and towns for construction.....	518
Elections held for purpose of authorizing special tax for school purposes when notice not properly published, ratified.....	177
For relief needy Confederate soldiers, sailors and widows, surplus to old age assistance.....	696
Gasoline	883
Income of obligations of United States or agencies shall be included in gross income in determining income taxes.....	93
Municipal corporations ad valorem tax rate limited, may levy and collect additional.....	886
Property United States taxable as other property and activities, exception	95
Remission to factories.....	529
See Excise Tax	
See Gasoline	
See Gasoline Excise Tax	
See Use Tax	
See Sales Tax	
Temporary loans shall not exceed percentage of uncollected taxes....	577
Tobacco products.....	538
Use Tax	

TAXI CABS

License tags may be transferred, condition.....	978
---	-----

TEACHERS

Act authorizing and requiring board of education certain counties to provide pension or retiring allowance repealed.....	477
Cancellation of employment contract, hearing.....	759-60
Contract of employment, salary.....	759-60
Corporation formed to assist county and city boards education to pay salaries known as Alabama Public Schools Corporation.....	810-11
Definition	759
Leaves of absence.....	761
Payment of salaries provided.....	614
Portion surplus of appropriation in general fund transferred to retirement fund.....	807
Reemployment	760
See Budget System	
See Teachers Retirement System	
Service status.....	759
State Superintendent of Education shall not approve expenditure of public funds for salaries unless teachers hold certificates.....	611
Suspension of certificates.....	760

TEACHERS RETIREMENT SYSTEM

Administration	565
Attorney General legal adviser to board of control.....	566
Benefits	563
Creditable service.....	562
Definitions	560
Exemptions from execution.....	573
Limitation on membership.....	574

TEACHERS RETIREMENT SYSTEM—Continued

Management of funds.....	567
Membership	562
Method of financing.....	568
Name and date of establishment.....	561
Office of office members board of control.....	566
Portion surplus appropriation in general fund transferred to re- tirement fund.....	807
Protection against fraud.....	573
See Retirement System	

TENANTS

Apportionment of receipts and expenses.....	902
Rentals on housing projects sufficient to pay obligations.....	981
See Uniform Principal and Income Tax	
Using part of principal.....	905

TENNESSEE VALLEY AUTHORITY

Director of Department of Conservation authorized to enter into agreements to establish wildlife management areas.....	1061
---	------

TEXT BOOKS, FREE

Funds appropriated for furnishing, how expended.....	400, 899
--	----------

TIDELANDS

Joint resolution petitioning Congress to refuse enactment of resolu- tion or bill seeking to establish claim of Federal government to any title or interest in submerged lands or tidelands of Alabama	956
---	-----

TIMBER

Fines shall go to Division of Forestry.....	995
On school land, supervision Department of Conservation.....	949
Persons guilty of damaging, penalty.....	993
Purchasing or contracting to purchase, penalty.....	993
Removal of	993
Sellings logs, poles, piling, cars, penalty.....	993
Title not necessary to be proved for conviction of violation acts providing for protection	993
Transporting, penalty	993
Written record of sales	994

TIRES

License for sale	966
------------------------	-----

TOBACCO PRODUCTS

Assessment	539
Definitions	538
Disposition funds.....	541
Execution and garnishment.....	539
Lien, tax.....	541
Records kept.....	541
Returns	539
State Department of Revenue shall ascertain nature of business and names of county applicant desires to transport or distribute tobacco products	1059
Transporting and distributing	1058
Use Tax.....	539

INDEX GENERAL ACTS OF REGULAR SESSION

1251

TOURIST	
Division State Planning Commission.....	475
TOWNS	
Bonds issued to finance public works projects validated.....	396
Lease of wharves.....	38
Licenses for selling automobiles, trucks, etc.....	497
TOWNS LESS THAN 1,000 POPULATION	
Gasoline filling stations and pumps, license, act amended.....	968
TOWNS 1,000 to 5,000 POPULATION	
Gasoline filling stations and pumps, license, act amended.....	968
TOWNS AND CITIES	
Commission form of government, not within influence or operation any other valid legislative enactment, act amended, certain population.....	408
Licenses for selling automobiles, trucks, etc.....	497
Power to reduce assessments for public improvements on property owned by State, town, city, county or organization.....	126
See Cities	
TOWNS AND CITIES LESS THAN 20,000 POPULATION	
Power to reduce assessments for public improvements on property owned by state, town, city, county or organization.....	126
TOXICOLOGIST, STATE	
Act creating office amended relating to duties, compensation.....	584
Appropriation.....	418
TRACTORS	
License, exception, act amended.....	329, 497, 528
TRADE MARK	
Persons defacing, on personal property encumbered with mortgage, conditional sale contract, penalty.....	1061
See Fair Trade Act	
TRADES AND INDUSTRIES, SCHOOL OF	
Appropriation.....	417
TRAILERS	
Distribution taxes to cities and towns for construction.....	518
Exemption when attached to passenger cars, weight.....	534
Hauling of passengers for hire prohibited.....	534
Length.....	689
License.....	533
Penalties.....	690
See Motor Carriers	
See Trucks	
Weight	
TRAINING SCHOOL FOR GIRLS	
Appropriation.....	417
TRANSFER	
Of surplus in State Treasury to credit of general fund to minimum program fund.....	599

TRANSPORTATION

Governor authorized to make expenditures from contingent fund.....	31
Railroad companies may acquire, own and operate motor vehicles and aeroplanes for	1019
See Alabama Motor Carrier Act of 1939	

TREASURER, CITY

To certify amount of school taxes expected to be derived from assessed valuations.....	611
To certify assessed valuation property on which taxes to be collected during fiscal year.....	611

TREASURER, COUNTY

See Budget System	
Submission referendum certain counties, election.....	955
To certify amount of school taxes expected to be derived from assessed valuations.....	611
To certify assessed valuation of property on which taxes are to be collected during fiscal year.....	611
Treasurer retirement system.....	766
Witness fees, when paid.....	34

TREASURER, STATE

Appropriation	412
Bond for duties in connection with Unemployment Compensation administration fund.....	752
Directed to pay interest bearing warrants from surplus of income tax proceeds.....	230-32
Duties, bond, salary.....	603
Member Board of Control Teachers Retirement System.....	565
Member State Board of Adjustment.....	602
Shall certify to Board of Commissioners names of attorneys paying license fee.....	872
Transfer of certain functions and duties to Department of Finance	151

TREES

Misdemeanor to cut flowers other than owner.....	333
Misdemeanor to cut, other than owner.....	333

TREE SURGERY

Applications	867
Bond for engaging in.....	867
Defined	866
Examination and licenses.....	867
Examining Board created.....	867
License for practice.....	867

TRIAL TAX

Circuit court clerks released from liability for failure to collect trial tax levied in Workmen's Compensation settlements.....	615
--	-----

TRUCKS

Definition	687
Gross load limit.....	687
Height	689
Length	689
License	497
Licenses for trailers.....	534
Penalties	690

TRUCKS—Continued

See Motor Carriers	
Speed	690
Tags	497
Unlawful riding	349
Weight, tires	688

TRUST CERTIFICATES

Absolute title	964
Defective title	964
Negotiability	964
Provisions of act, when applicable	964
See Security Receipts	
Title may be transferred	964
Title of holder	964

TRUST COMPANIES

Bonds	349
Invest sinking funds in bonds and other obligations issued by housing authorities, provisions	901
No revocation, countermand or stop payment order shall remain in effect more than six months after service on bank unless renewed	1006
Not compelled to keep open for transaction business after twelve o'clock noon Saturday	1005
Security for deposit of State funds	349
Validity of payment, certification or acceptance of a check or other negotiable instrument or other transaction when done or performed between twelve o'clock noon and midnight Saturday, not affected	1005

TRUSTEE

Causes of removal	478
Circuit court may remove	478
Compensation for designation	225
Distribution of assets	226
Lawful to invest funds in notes or bonds secured by mortgage or trust deed, issued by Federal Housing Administrator	227
Sales of mortgages	226
When successor not named circuit court shall appoint new trustee	479

TRUST ESTATE

Expenses	908
See Uniform Principal and Income Tax	

TRUST FUND

Monies covered into state treasury to credit of general fund	808
--	-----

TRUSTS AND TRUSTEES

Causes of removal	478
Circuit court may remove	478
When successor not named circuit court shall appoint new trustee	479

TUBERCULOSIS

Appropriation for paying indemnities to cattle owners of cattle reacting to tests	200
---	-----

TUSKEGEE INSTITUTE

Appropriation	506
---------------------	-----

UNEMPLOYMENT COMPENSATION COMMISSION

Abolished	236
Director	249
Proration of salaries	251
Salary	33, 140
See Unemployment Compensation Law 1935 amended	
Transfer of functions and duties to Director of Industrial Relations ..	236
Unemployment compensation fund	237

UNEMPLOYMENT COMPENSATION LAW

Administration	235, 239
Director Industrial Relations Department Chief Unemployment Compensation	769
Director Industrial Relations to perform duties of Unemployment Compensation Commission	235, 239
Joint resolution requesting Governor to appoint a committee to review progress of experience rating program adopted	966
Sections of act creating Department, repealed	254
See Unemployment Compensation Law 1935, amended	

UNEMPLOYMENT COMPENSATION LAW 1935, AMENDED

Adjustments	751
Administration	742
Advisory councils	744
Appeals	738
Appropriations	753
Assignment of benefits	748
Bankruptcy or insolvency	751
Benefit eligibility conditions	735
Bond of State Treasurer	753
Claims for benefits	737
Collection of contributions	748
Committee to make study of experience rating	731
Contributions	731, 732
Court action	748
Definitions	722
Director Industrial Relations to supply committee with assistance ..	732
Disqualification for benefits	736
Duration of benefits	733
Extensions	751
Limitation of fees	747
Maritime, employment and benefit rights	733
Payment of benefits	732
Penalties	751
Period and termination of employer's coverage	742
Personnel	744
Protection rights and benefits	747
Reciprocal arrangements	746
Refunds	751
Rules and regulations	743
Seasonal employment and benefit rights	733
See explanation note on page 755	
State Federal Cooperation	745
Transitional provisions	741
Trust Fund	754
Unemployment compensation administration fund	752
Unemployment Compensation Fund	728
Weekly benefit amount	733

UNFAIR COMPETITION

See Fair Trade Act

UNIFORM ACT FOR OUT OF STATE PAROLEE SUPERVISION

Apprehension in receiving state.....	432
Cases pending in receiving state, cannot be retaken by sending state before consent.....	432
Duty receiving state with reference to parolee.....	432
Extradition waived.....	432
Governor authorized to enter into compact with other states for mutual helpfulness in relation to persons convicted of crime or offenses, on probation or parole.....	432
Officer designated to carry out terms of compact for mutual helpfulness in relation to persons convicted of crime or offenses, on probation.....	432
Parolee residing in other state, provision.....	432
See Probation.....	

UNIFORM PRINCIPAL AND INCOME TAX

Apportionment of income.....	903
Corporate dividends and share rights.....	904
Definitions.....	902
Disposition of natural resources.....	906
Expenses, trust estates, nontrust estates.....	908
Income and principal, disposition.....	903
Powers of settlor.....	902
Premium and discount obligations.....	905
Principal comprising animals.....	906
Principal subject to depletion.....	906
Principal used in business.....	905
Unproductive estate.....	907

UNIFORMS

Unlawful to assemble with other persons attired in foreign.....	987
Unlawful to wear, of foreign state, nation or government.....	987

UNION

Joint resolution viewing with disfavor effort to organize state employees.....	1004
--	------

UNITED DAUGHTERS CONFEDERACY

Appropriation for completion bronze statue Jefferson Davis.....	865
Discontinuance of scholarship.....	980
Free scholarship provided upon donation of sum for securing, act amended.....	979
Last year of tenure scholarship to be loan scholarship.....	980

UNITED STATES

Interest or other income on obligations included in gross income.....	93
Property taxable as other property and activities, except where State without authority to impose taxes.....	95

UNITED STATES BUREAU OF ANIMAL INDUSTRY

Appraisal of cattle reacting to tests.....	200
Appropriation paying indemnities to owners of cattle reacting to tests.....	200

UNITED STATES BUREAU OF BIOLOGICAL SURVEY

Director of Department of Conservation authorized to enter into agreements to establish wildlife management areas.....	1061
--	------

UNITED STATES DEPARTMENT OF AGRICULTURE	
Consent State to cooperate with, in restoration of wildlife in compliance with Pittman-Robertson Act, restoration game, fish, forests, parks.....	803
UNITED STATES EMPLOYMENT SERVICE	
Department of Industrial Relations to cooperate with.....	235
UNITED STATES FLAG ASSOCIATION	
Joint resolution observance Flag Week.....	125
UNITED STATES FOREST SERVICE	
Director of Department of Conservation authorized to enter into agreements to establish wildlife management areas.....	1061
UNITED STATES HIGHWAY NO. 11	
Joint resolution designating Gold Star Highway.....	165
UNITED STATES LABOR DEPARTMENT	
Agreement as to proration of salaries Department of Industrial Relations	251
Director of Industrial Relations to conform to minimum standards	253
UNITED STATES OFFICERS, AGENTS	
Salaries, fees, commissions, income subject to State income tax.....	94
UNITED STATES VETERANS ADMINISTRATION HOSPITAL	
Admission of patient; same powers as Superintendents of State Hospitals	172-4
Application for admission of patient instead of to State Insane Hospitals	169
Transfer of patients in State Insane Hospitals to.....	172-4
UNIVERSITY OF ALABAMA	
Appropriation	401, 417
UNIVERSITY OF ALABAMA, BOARD OF TRUSTEES	
Appropriation, University.....	401
Bonds issued to finance public works projects validated.....	396
USED MOTOR VEHICLES	
Act regulating business of selling used motor vehicles amended relating to violation and enforcement of act.....	989
Director of Department of Public Safety authorized to enforce provisions of act regulating business of selling used motor vehicles	989
UNLAWFUL	
To assemble with other persons attired in foreign uniforms.....	987
To wear uniforms of foreign state, nation or government.....	987
USE TAX	
Act amended, disposition taxes, fees.....	503
Appeal to Supreme Court.....	107
Collection of tax.....	100
Definitions	96
Delinquency, penalty.....	105
Delinquent taxes, how collected.....	107
Divulging information.....	106
Excess payment.....	105
Exemptions	98

USE TAX—Continued

Extension of time	104
Failure to furnish returns	108
Failure to pay	102, 103
False returns	108
Final returns on selling out business	106
Fraud	105
Lien upon property	105
Overpayments	107
Penalty	102, 103, 105
Reciprocal arrangement for examination	106
Records kept as required by Department of Revenue	106
Redetermination	103, 104, 105
Refunds	107
Returns	101
Security when required	104
See Tobacco Products	
Sellers of tangible personal property register agents with Department of Revenue	100
Storage of automotive vehicles	98
Storage of tangible personal property	98
Successor withholds amount from purchase price of business for	106
Tangible personal property	98
Tobacco products	539
When due	101, 103

VALIDATING ACT OF 1939, THE

Bonds issued to finance public works projects validated	396
---	-----

VENDING MACHINES

Confiscation	520
License, exceptions	520
Name of owner affixed	520

VENEREAL DISEASE

Cases shall be reported to county health officer	370
Discharged prisoners, written notice of treatment submitted to health officer	369
Examination	370
Prisoners confined shall be examined and provided with proper treatment	369
Suitable facilities for treatment purposes	369
Suppression of prostitution declared public health measure, and prostitution declared to be presumptive evidence of infection	370

VETERINARIAN, STATE

Appraisal of cattle reacting to tests	200
Payment to cattle owners of cattle reacting to tests prescribed by rules and regulations of United States Bureau of Animal Industry	200
State Toxicologist to cooperate with	584

VOCATIONAL AGRICULTURAL EDUCATION

See Soil Conservation Districts Law	
Supervisor member State Soil Conservation Committee	203

VOCATIONAL SCHOOL FOR GIRLS, ALABAMA

Appropriation	504
---------------	-----

VOTING MACHINES

Absentee ballots.....	454
Act providing for amended relating to definitions.....	989
Authorization.....	444
Canvass of vote and proclamation of result.....	455
Custody of and keys.....	457
Definition of terms.....	443
Delivery of voting machine supplies to election officers.....	452
Demonstration.....	449
Discontinuance.....	447
Election officers, duties.....	452
Election supplies.....	449
Emblem of political parties shall be shown on.....	989
Installation.....	446
Instruction and assistance for voters at polls.....	453
Instruction of election officials.....	451
Instruction voters before election.....	453
Name and office omitted from ballot in primary elections where only one candidate qualified.....	453
Payment.....	449
Penalties.....	458
Polls, how long open.....	455
Preliminaries of opening polls.....	450
Preparation for use.....	449
Preservation of ballots and records of.....	457
Recanvass of votes, provision.....	457
Referendum, adoption of voting machines.....	445
Repair of machine, or use of paper ballots.....	454
Requirements.....	448
Statements of canvass.....	456
Use in municipalities or other political subdivisions.....	458
Voting by irregular ballot.....	454

WAGES

Exemption from levy under writs of garnishment.....	396
---	-----

WAGNER-PEYSER ACT

Appropriation unemployment administration fund.....	753
---	-----

WALDEN-NORMAN LAW

Designation local option stock law as.....	762
--	-----

WAR

Joint resolution urging against price raising at expense of people on account of war.....	553
See Military Code amended	

WAREHOUSES, PUBLIC

Appeals.....	588
Application, filing fee.....	587
Application for license.....	587
Bond recorded, filed.....	589
Complaints on operation.....	590
Evidence, power to secure.....	591
Extra condition of bond.....	589
Failure to obtain permit.....	595
Hearing before commissioner.....	590
Inspection.....	589
Investigation complaint against warehouse.....	590

INDEX GENERAL ACTS OF REGULAR SESSION

1259

WAREHOUSES, PUBLIC—Continued

Issuance of permit.....	589
License to conduct.....	587
Notice of disposition of application.....	588
Permits to transact business.....	587
Property stored in open, insured.....	594
Standards.....	586
Under supervision Commissioner Agriculture and Industries.....	586
Warehouse receipt.....	594
When Commissioner may take charge; receivership under direction of court.....	591

WARRANT COMMISSION

Requested to issue to Treasurer interest bearing warrants, representing warrants constituting part of floating debt at close of business September 30, 1932.....	230-32
--	--------

WARRANTS

See School Warrants	
Warrant Commission required to issue to Treasurer interest-bearing	232

WATER COURSE

Municipalities may alter.....	38
-------------------------------	----

WATER WORKS BOARD

Borrowing money.....	714
Dissolution corporation.....	714
Powers	713
Water works system property cities and towns.....	714

WATER WORKS SYSTEM

Borrowing money.....	714
Cities and towns authorized to enter into agreement with water board to effectuate transfer of water works.....	717
Cities and towns authorized to transfer and convey water works to water board, pursuant to ordinance.....	716
Powers corporation.....	714
Property cities and towns.....	714
Transfer of water works to water board, outstanding bonds paid by water board.....	716

WEIGHTS AND MEASURES

Inspection, code section amended.....	38
---------------------------------------	----

WELCH, W. S.

Joint resolution commending W. S. Welch and John A. Lusk, chairman and vice-chairman, and members of Joint Committee of two Houses of Legislature, for successful completion of 1940 Code	1004
---	------

WELFARE, STATE BOARD

See Public Welfare, State Board

WELFARE, STATE DEPARTMENT PUBLIC

See Public Welfare, State Department

WHARVES

Leasing, dues.....	33
--------------------	----

WHOLESALE

See Fair Trade Act

WIDOWS

Amount inadequate for purchase homestead, remedy.....	864
Amount set aside used for support.....	864
Guardian ad litem.....	864

WILDLIFE

Consent of State to cooperate with United States Department of Agriculture in restoration of wildlife in compliance with Pittman-Robertson Act, restoration game, fish, forests, parks.....	803
---	-----

WILDLIFE MANAGEMENT AREAS

Advertisement of dogs found on.....	1063
Boundaries.....	1061-2
Carrying of firearms without permit prohibited.....	1063
Department of Conservation authorized to enter into agreements to establish.....	1061
Department of Conservation authorized to establish.....	1061
Director of Conservation and agents authorized to search and confiscate birds, animals or fish found killed or held in violation of game laws.....	1062
Director of Conservation authorized to close to hunting or fishing any land or water within boundary within.....	1062
Dogs not allowed, impoundment.....	1063
Fees for hunting or fishing on.....	1062
Harvesting of game and fish crops.....	1062
Planting and cultivation game and fish foods.....	1062
Protection.....	1062
Restocking of wildlife species.....	1062
Seasons on game animals, birds and fish.....	1062

WILD LIFE RESERVATION

Joint Resolution petitioning Congress to authorize grants of public lands and improvements to Alabama.....	346
--	-----

WILLS

Beneficiaries' rights not affected to follow proceeds from sale of property.....	45
Inoperative when not propounded for probate within twelve months from date of death testator as to purchasers mortgages.....	45

WITNESS FEES

Claims, when barred.....	34
Claims, when presented.....	34
Witness for State attending in more criminal cases than one on the same day, entitled to fees in one case.....	35

WOODLANDS

Malicious setting fire.....	712
Suppression fires.....	712

WORKMEN'S COMPENSATION

Actions brought against insurer.....	1040
Advance payments.....	1037
Appeals from ruling that employer unable to meet his obligations.....	1039
Applicability of provisions of act.....	1036, 1038

WORKMEN'S COMPENSATION—Continued

Appropriation to Department of Industrial Relations Department for administering act	967
Approval of settlement by court.....	1037
Bond required	1039
Clerk of circuit court to report to Department of Industrial Relations	1044
Conditions of insurance policies.....	1040
Contracts of employment.....	1044
Costs of court proceedings.....	1037
Deductions of amount actually received.....	1042
Definitions	1047
Director of Department of Industrial Relations responsible for administration of act	1043
Director of Department of Industrial Relations shall gather statistics	1043
Director of Department of Industrial Relations to distribute forms and literature	1043
Effective date of act.....	1049
Employer given right to insure risks; self insurer; conditions.....	1038
Employee's notice	1045
Employer's notice of acceptance or non-acceptance of provisions of act	1044-45
Employer shall keep record of injuries.....	1043
Employer shall report accidents to Department of Industrial Relations	1043-44
Employer's supplementary reports	1044
Failure circuit court clerks to collect trial tax in settlements.....	615
Injury received in military service.....	789
Legal services	1036
Liability of party other than employer.....	1042
Limitation on compensation.....	1045
Medical, surgical and hospital service.....	1045
Payment of award by employer to trustee.....	225
Penalties	1039
Remarriage of widow, payment of compensation.....	1037
Right of action preserved.....	1048
Self-insurer	1038
Settlement between parties	1037
Waiting period	1038
When allowed	1038

WORLD WAR VETERANS

Erection monuments on grounds of the Memorial Building to memory of Spanish American War Veterans and World War Veterans	1029
--	------

WRESTLING MATCHES

Authorized by Alabama Boxing and Wrestling Commission.....	703, 780, 782
See Boxing and Wrestling Commission, Alabama	
When prohibited	703

YOUNG-NORMAN (Bullock) bill

Joint resolution designating S. B. 468 as.....	684
--	-----

GENERAL LAWS
(AND JOINT RESOLUTIONS)
OF THE
LEGISLATURE OF ALABAMA
PASSED AT THE
SPECIAL SESSION OF 1939

HELD AT THE CAPITOL, IN THE CITY OF MONTGOMERY

Commencing Thursday, March 16, 1939



FRANK M. DIXON, Governor.
A. A. CARMICHAEL, Lieutenant-Governor.
J. N. POOLE, President Pro Tem. of the Senate.
HUGH D. MERRILL, Speaker of the House

I, John Brandon, Secretary of State in and for the State of Alabama, do hereby certify that this volume is published by the authority of the State of Alabama, and in accordance with law.

JOHN BRANDON,
Secretary of State.

BIRMINGHAM PRINTING COMPANY
State Printers and Binders
Birmingham, Alabama
1939

A PROCLAMATION BY THE GOVERNOR

WHEREAS, in the opinion of the Governor of the State of Alabama, an extraordinary occasion exists which demands the convening of the Legislature of Alabama in extraordinary session as prescribed by Section 122 of the Constitution of Alabama of 1901; and

WHEREAS, it is deemed necessary by the Governor that the Legislature of the State of Alabama consider and act upon the following subjects and matters:

1st. To propose an amendment to Section 124 of the Constitution of Alabama of 1901 relating to the power of the Governor to grant reprieves to persons under sentence of death and the power of the Legislature to provide for and regulate the administration of pardons, paroles, commutations of sentence, remission of fines and forfeitures, and to authorize courts having criminal jurisdiction to suspend sentence and order probation.

2nd. To propose an amendment to Section 190 of the Constitution of Alabama of 1901 to require the Legislature to permit the use of voting machines and other mechanical devices for registering, recording, and computing the votes at all elections and primaries in any county, municipality or other political subdivision of the State, at the option of the electors of such county, municipality, or political subdivision.

3rd. To propose an amendment to the Constitution of Alabama of 1901 relating to the time of convention of the Legislature, the length of sessions of the Legislature, and the compensation and travel allowance of the members of the Legislature.

4th. To propose an amendment to Section 74 of the Constitution of Alabama of 1901 to remove certain limitations on the powers of executors, administrators, guardians and trustees in regard to the investment of funds of which they are trustees.

5th. To propose an amendment to Section 8 of the Constitution of Alabama of 1901 to authorize the Legislature to dispense with grand jury investigations in felony cases, except those punishable by capital punishment, where the defendant interposes a plea of guilty on preliminary trial.

6th. To propose an amendment to Section 178 of the Constitution of Alabama of 1901 to provide that persons duly registered may qualify as electors upon the payment of poll tax for the current year and the two years next preceding.

7th. To propose an amendment to the Constitution of Alabama of 1901 creating a Board of Apportionment to apportion the membership of the Senate and of the House of Representatives, in the event of the failure of the Legislature to apportion said membership as provided by law.

II

NOW, THEREFORE, I, Frank M. Dixon, as Governor of the State of Alabama, do hereby proclaim and direct that the Legislature of the State of Alabama convene in extraordinary session at the seat of Government in Montgomery, Alabama, at 11:00 A. M., Thursday the 16th day of March, 1939.



IN WITNESS WHEREOF, I have hereunto set my hand as Governor of the State of Alabama and caused the same to be attested by the Secretary of State and the Great Seal of the State affixed at the Capitol, this the 16th day of March, 1939.

FRANK M. DIXON,
Governor.

ATTEST:
John Brandon,
Secretary of State.

III

MESSAGE OF GOVERNOR FRANK M. DIXON TO SPECIAL SESSION, 1939.

March 16, 1939.

To the Members of the Legislature of Alabama:

Since you assembled in January there has been more of solid, worthwhile accomplishment for the good of Alabama than in any legislative session in our history as a state. The people are proud, and they have every reason to be proud, of the membership of this Legislature.

There have been differences of opinion, as of course. But never has the spirit of compromise of honest differences been more manifest, never has there been displayed a greater determination to work unselfishly for the advancement of our people. In you, Alabama is fortunate indeed. And as you assemble in Extraordinary Session for the consideration of the important matters placed before you, it is without scars, without bitterness and factionalism, without hatreds, but with a continuing determination to serve, as best you may, those whom you here represent.

PARDONS, PROBATIONS AND PAROLES

Each of you is familiar with the defects of our present penal system and with the scandals of the past. There is no remedy except by power of a constitutional amendment, to be submitted to the people of Alabama, authorizing the Legislature to provide for and to regulate the granting of pardons, paroles, remission of fines and forfeitures, the suspension of sentences and probation. A bill submitting an amendment vesting this power in the Legislature has been prepared and will be submitted for your consideration. In it the only power remaining in the hands of the Governor is that of granting reprieves and commutations to persons under sentence of death within such limitation as the Legislature may prescribe.

With the adoption of this amendment by the people, there will be submitted to you at the Summer Session legislation, enabling us to put into effect a modern system of pardons, probations and paroles.

With the adoption of a tested and approved modern system, it is my opinion that we can lessen our prison population by about twenty-five per cent and, after the first year of operation, bring about substantial savings in costs. Of equal importance, by a classification system of prisoners, segregation of first offenders and probation work in proper hands, we can install common sense and humanity into the treatment of our prisoners, working out

IV

the reclamation and restoration to society of a reasonable percentage of these unfortunates.

Without the adoption of such an amendment our prison population will continue to expand, we will need additional and substantial increase in prison construction, and the abuses which in the past have been so prevalent in our prison system must continue.

I recommend the passage of the bill authorizing the submission of this amendment.

VOTING MACHINES

Our Supreme Court has held that under the provisions of our Constitution the use of voting machines is prohibited, regardless of the wishes of the people of any locality within the State.

It is obvious that these purely technical provisions of our Constitution should be changed so as to permit the use of these devices if the use is desired by the people of any political subdivision of the State, and this desire expressed at the polls.

A bill proposing an amendment to permit the use of voting machines in elections in Alabama has been prepared and will be submitted for your consideration. I recommend its passage.

BIENNIAL SESSIONS OF THE LEGISLATURE

Alabama is the only State having a quadrennial system. It is impossible to budget four years in advance, since of course, revenues fluctuate as well as needs of the various governmental agencies. It has been found that the biennial system, limited to a prescribed number of calendar days, is the most satisfactory.

Under our system of quadrennial sessions, it has been necessary to have special sessions two or three times in each quadrennial term. In addition, our system of the use of legislative days instead of calendar days greatly extends the length of time the Legislature is in session, and increases the costs incident to the meeting of the Legislature and the inconvenience and loss suffered by its members by reason of absence from their homes and businesses.

The rate of pay provided in the Constitution, even when supplemented by the present expense allowance, is not sufficient to enable the members of the Legislature to live in reasonable comfort while they are in Montgomery attending to the business of the people. It is my conviction that the members should be paid ten dollars for each day of attendance, and that the regular biennial session should

V

be limited to sixty calendar days. A short organization session, not to exceed ten calendar days in length, should be held beginning at the time when the regular quadrennial session now starts, for the purpose of performing the ministerial duties outlined in the Constitution, with the regular session convening on the first Tuesday in May thereafter. In this way an incoming Governor will have an opportunity to familiarize himself with the affairs of the State and prepare such recommendations to the Legislature as are advisable.

A bill proposing an amendment to the Constitution of Alabama providing for biennial sessions as above outlined has been prepared and will be submitted for your consideration. I recommend its adoption.

INVESTMENT OF TRUST FUNDS

Under the present Constitution executors, administrators, guardians and other trustees are severely limited as to the field in which investments of such funds may be made. There seems to be no reason why investment of such funds should not be permitted in corporate or institutional investments which are guaranteed or insured as to principal by the United States Government, or an instrumentality or agency of such Government, to the extent authorized to be so insured.

A bill proposing an amendment to the Constitution of Alabama permitting such investment has been prepared and will be submitted for your consideration. I recommend its passage.

GUILTY PLEAS IN FELONY CASES

Under our Constitution a prisoner accused of a felony is, in many instances, required to lie in jail for many months awaiting trial, even though such prisoner may desire to enter a plea of guilty and begin serving his sentence. This situation should not be allowed to continue to exist.

A bill has been prepared proposing an amendment to the Constitution whereby in all felony cases, except those punishable by capital punishment, where the defendant interposes a plea of guilty on preliminary trial the Legislature may by law dispense with a grand jury and authorize prosecution and proceedings before the Circuit Court. I recommend its passage.

VI

POLL TAX AMENDMENT

You are familiar with cumulative poll tax requirements. The platform on which I was elected advocated the installation of a system authorizing the registration and voting on payment of poll tax for the current year and two years back. It seems to me that the people of Alabama are entitled to express themselves at the polls in this regard.

A bill has been prepared for your consideration proposing an amendment permitting registration and voting on payment of poll tax for the current year and two years back. I recommend its passage.

REAPPORTIONMENT

You are familiar with the situation in Alabama with reference to reapportionment. So long as the present provisions are in our Constitution, beyond any question they should be complied with. If they are not desired they should be changed.

Experience has shown us definitely that reapportionment is extremely difficult to accomplish under the present constitutional provisions. Other States have met this problem and solved it.

A bill has been prepared submitting a constitutional amendment creating a Board of Apportionment consisting of the Governor, the Secretary of State and the Attorney General, and further providing that in the event the Legislature fails or refuses at the time provided in the Constitution to fix by law, and in accordance with the law, the membership of the House of Representatives and of the Senate, and apportion such membership as provided by law, then the Board of Apportionment shall proceed to make such apportionment under the terms and as provided by the Constitution of Alabama. The bill further provides that should the Board of Apportionment fail to perform its duties, original jurisdiction is vested in the Supreme Court to compel by mandamus, or otherwise, the performance of this duty and such proceedings may be brought by any citizen or taxpayer in the State. I recommend the passage of the bill submitting this matter to the people of Alabama.

In closing let me assure the membership of the Legislature of my desire to cooperate with you in your extremely important duties. You have shown that you have at heart the well being and the progress of our people. I congratulate you on the fine work that has been done, and wish for you a continuance of the harmonious relationship and friendly feeling of the first session.

—Frank M. Dixon.

GENERAL LAWS

No. 1) HOUSE JOINT RESOLUTION (H. J. R. 5—Dominick

WHEREAS the Seventy-sixth Congress of the United States now assembled has under consideration the following revisions in the Federal Social Security Act with reference to public assistance and

WHEREAS these revisions will materially affect Federal grants-in-aid to the States, therefore

BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALABAMA:

1. That this Legislature go on record as urging an increase in Federal grants-in-aid to the states for aid to dependent children to a minimum of fifty per cent matching in order that the Federal Government may share more equitably with the states the cost of care for dependent children.

2. That this Legislature recommends that the Social Security Act be amended in order that the States may be reimbursed for fifty per cent or more of the necessary cost of proper administration of the three public assistance programs in which the Federal Government participates.

3. That the present system of providing Federal grants on a uniform percentage basis be modified in order to allow for variation in such grants to states in accordance with the ability of the states to pay.

4. That a copy of this resolution be transmitted by the Clerk of the House and the Secretary of the Senate to each member of Alabama's Congressional delegation in Washington and to the Chairman of the Ways and Means Committee of the House of Representatives of the Congress.

Approved March 24, 1939.

No. 2) HOUSE JOINT RESOLUTION (H. J. R. 6—Cobb

WHEREAS, Fort Oglethorpe at Chattanooga, Tennessee, and Fort McClellan at Anniston, Alabama, are two of the largest U. S. military and concentration camps and

WHEREAS, it is recognized that it would be to the advantage of both these military camps to have a direct paved road between them, and that the most direct, feasible, easily constructed route is from Anniston through Center and Gaylesville, Alabama, to the Georgia State Line where it connects with a road now under

construction, to Summerville, Georgia, whereby a distance of approximately 35 miles can be saved. THEREFORE:

BE IT RESOLVED BY THE HOUSE, THE SENATE CONCURRING, that the State Highway Department of Alabama and the Bureau of roads in Washington are respectfully urged to give immediate consideration to the construction of such highway through Alabama; that the Highway Department of Alabama is respectfully requested to contact the Highway authorities in Georgia seeking cooperation on the part of that State in construction of the portion of the road that may lie in Georgia; That members of the House of Representatives and the United States Senators from Alabama in Congress, are urgently requested to use their influence to bring to the attention of the proper authorities in Washington the desirability and effectiveness of a road from Fort McClellan to Fort Oglethorpe and urging them to secure the adoption of the proposed route.

BE IT FURTHER RESOLVED, that a copy of this resolution be sent to the State Highway Department, Bureau of Roads in Washington, and to the members of the House of Representatives and the Senators of Alabama in the Congress of the United States.

Approved March 31, 1939.

No. 3) HOUSE JOINT RESOLUTION (H. J. R. 8—Weston

BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES, THE SENATE CONCURRING, That,

WHEREAS, the future welfare of the people of the State of Alabama depends upon proper and adequate education of the children of the State, it being well recognized that the relative position of a State in the economic and scientific world has a direct relationship with the educational training offered and received by its citizens; and

WHEREAS, the State of Alabama and the other agencies of our State Government have contributed to educational purposes as generously as the wealth of the State would permit, and,

WHEREAS, such contributions have not been and are not now adequate to provide satisfactory school terms for the present or future, and it is absolutely necessary and essential that financial assistance from other sources be secured; NOW, THEREFORE,

BE IT RESOLVED that the Legislature of the State of Alabama hereby calls upon the senators and representatives in Congress from the State of Alabama to lend their support and influence to the end that National legislation be originated and passed granting to the State of Alabama such financial assistance as

may be necessary to provide reasonable and adequate school terms for the children of our State, that they may receive that proper training to which they are of a right entitled so that they might attain the position in the business world for which they should be equipped.

BE IT FURTHER RESOLVED, that a copy of this resolution, properly certified, be sent to each Senator and Representative in the Congress of the United States from the State of Alabama.

Approved March 30, 1939.

No. 4)

(H. 2—Deloney

AN ACT

To validate bonds creating a general obligation or for which full faith and credit is pledged, which have been authorized and to validate proceedings taken for the authorization of said bonds since July 1, 1938, by any city or town in the State of Alabama when heretofore or hereafter issued and sold as provided by law.

Be it Enacted by the Legislature of Alabama:

Section 1. In all cases since July 1, 1938, where any city or town in this State has authorized the issuance of bonds which create or shall create a general obligation or indebtedness on the part of such city or town or for which the full faith and credit of such city or town is pledged, and the voters of such city or town have since such date approved the issuance of such bonds at an election called and held for that purpose, all such bonds when heretofore or hereafter sold and delivered as provided by law are hereby declared to be valid and legally binding obligations of such city or town, notwithstanding, without limiting the generality of the foregoing, any defect or irregularities in the proceedings had to authorize such bonds, including the failure of the bonds or the proceedings had to authorize such bonds to comply with any statutory provision or provisions that no annual instalment of principal shall be more than twice as large as the smallest prior instalment of principal of the same issue, the failure to file any petition required by law, or the failure to file a petition in the form required by law.

Section 2. This Act shall become effective upon its approval by the Governor.

Section 3. The provisions of this Act shall not apply to any bonds which shall be authorized by vote of the people subsequent to the passage of this Act.

Approved March 29, 1939.

No. 5)

(H. 16—Hodo

AN ACT

To further define the powers, functions and duties of the State Treasurer.

Be it Enacted by the Legislature of Alabama:

Section 1. That from and after the passage of this Act, the State Treasurer shall have the following powers, functions and duties in addition to those now provided by law: To have the custody of and to keep safely all moneys, bonds, mortgages and other securities required or permitted by law to be deposited with the State or any officer thereof by any bank, trust company, insurance company, mutual aid or benefit association, or other person or corporation, and also all securities held by the State, including those held for the account of any sinking fund (including those heretofore in the custody of the Sinking Fund Commission) and all bonds of State officers. All such moneys, bonds, mortgages and other securities shall be guarded at all times by a bonded officer or employee while in the office of the State Treasurer, and shall, upon receipt, be deposited in a burglar-proof and fire-proof vault by the State Treasurer. Until the State shall have acquired an adequate burglar-proof and fire-proof vault, the combination to which shall be known only to the State Treasurer and adequately bonded employees, all such bonds, mortgages and other securities shall be kept in safety deposit boxes or vaults in one or more banks or trust companies approved for that purpose by the State Treasurer. In any event, however, whether any vault shall have been acquired by the State or not, when requested by any depository, the State Treasurer may authorize the deposit of any money, bonds, mortgages or other securities by such depository with a bank or trust company in the State of Alabama to be held in its safety deposit boxes or vaults, which bank or trust company shall have been approved in advance by the State Treasurer and which shall have executed with the State Treasurer a contract with respect to the safe keeping of such money, bonds, mortgages or other securities and the substitution therefor of other money, bonds, mortgages or other securities. Such contract shall be approved in writing by such depositor. Any charges in connection with such deposit shall be paid by such depositor. The State Treasurer shall not be personally liable for the loss of any money, bonds, mortgages or other securities so deposited if he shall have used reasonable precaution in approving such bank or trust company.

Section 2. That this Act shall become effective upon its passage and approval by the Governor.

Approved March 31, 1939.

AN ACT

To amend the title and body of the Act entitled "An Act to provide authority for the State Board of Education and/or the trustees of all State Institutions where education is a part of the program of the Institution to borrow money from Federal agencies for the erection of buildings, beautification of grounds and the erection and maintenance of swimming pools at the several State Institutions; to authorize the issuance of bonds, warrants or other evidences of debt for the repayment of the amount borrowed with interest at a rate not to exceed four per cent semi annually, and to pledge therefor the fees from students to be levied by the Institution for which the money is borrowed, and any other moneys not appropriated by the State to said Institution; to make such bonds, warrants or other evidences of debt not an obligation of the State and not payable out of any moneys provided by the State," approved September 13, 1935, to provide that the State Board of Education and/or the trustees of all State Institutions where education is a part of the program of the Institution may borrow money for the purposes specified in said Act from any private person or corporation or lending agency as well as from Federal agencies.

Be it Enacted by the Legislature of Alabama:

Section 1. That the title of the Act entitled "An Act to provide authority for the State Board of Education and/or the trustees of all State Institutions where education is a part of the program of the Institution to borrow money from Federal agencies for the erection of buildings, beautification of grounds and the erection and maintenance of swimming pools at the several State Institutions; to authorize the issuance of bonds, warrants or other evidences of debt for the repayment of the amount borrowed with interest at a rate not to exceed four per cent semi annually and to pledge therefor the fees from students to be levied by the Institution for which the money is borrowed and any other moneys not appropriated by the State to said Institution; to make such bonds, warrants or other evidences of debt not an obligation of the State and not payable out of any moneys provided by the State," approved September 13, 1935, be and the same is hereby amended to read as follows: "An Act to provide authority for the State Board of Education and/or the trustees of all State Institutions, where education is a part of the program of the Institution, to borrow money from Federal agencies or from any private person or corporation or lending agency for the erection of buildings, beautification of grounds and the erection and maintenance of swimming pools at the several State Institutions; to authorize the issuance of bonds, warrants or other evidences of debt for the repayment of the amount borrowed with interest at a rate not to exceed four per cent semi annually, and to pledge therefor the fees from students to be levied by the Institution for which the money is borrowed, and any other money not appropriated by the

State to said Institution; to make such bonds, warrants or other evidences of debt not an obligation of the State and not payable out of any moneys provided by the State."

Section 2. That Section 1 of said Act approved September 13, 1935, be and the same is hereby amended to read as follows: "Section 1. That authority is hereby granted to the State Board of Education and/or the trustees of all State Institutions, respectively, where education is a part of the program of the Institution to borrow money from Federal agencies or from any private person or corporation or lending agency for the erection of buildings, beautification of grounds and the erection and maintenance of swimming pools at the several State Institutions and to comply with the requirements of such Federal agencies or of such private persons, or corporations, or lending agencies promulgated in reference to moneys so loaned."

Section 3. This Act shall become effective immediately upon its approval by the Governor.

Approved March 29, 1939.

No. 7)

(S. 9—Hildreth

AN ACT

To propose an amendment to Section 8 of the Constitution of Alabama and to order an election by the qualified electors of the State of Alabama upon such proposed amendment to be held on the second Tuesday after the expiration of three months from and after the final adjournment of the present session of the Legislature, at which this amendment is proposed; and to provide for the expenses of holding said election.

Be it Enacted by the Legislature of Alabama:

Section 1. The following amendment to Section 8 of the Constitution of the State of Alabama is hereby proposed, and an election is hereby ordered by the qualified electors of the State of Alabama upon the proposed amendment and the day hereby appointed for the said election is the second Tuesday after the expiration of three months from and after the final adjournment of the present session of the Legislature. The proposed amendment is as follows: "Section 8. That no person shall for any indictable offense be proceeded against criminally by information, except in cases arising in the militia and volunteer forces when in actual service, or when assembled under arms as a military organization, or, by leave of the court, for misfeasance, misdemeanor, extortion and oppression in office, otherwise than is provided in the Constitution; provided, that in cases of misdemeanor, the Legislature may by law dispense with a grand jury and authorize such prosecutions and proceedings before justices of the peace or such other inferior courts as may be by law established. Provided further

that in all felony cases, except those punishable by capital punishment, the Legislature may by law dispense with a grand jury and authorize such prosecutions and proceedings in such manner as may be provided by law if the defendant, after having had the advice of counsel of his choice or in the event he is unable to employ counsel, the advice of counsel which must be appointed by the court, makes known in open court to a judge of a court having jurisdiction of the offense that he desires to plead guilty, provided, however, the defendant cannot plead guilty within fifteen days after his arrest."

Section 2. Notice of the election hereby ordered, together with the amendment hereby proposed shall be given by proclamation of the Governor, which shall be published in one newspaper once a week in every county in the State for at least four successive weeks, next preceding the day hereby appointed for such election.

Section 3. At the election hereby ordered to be held as herein provided, the qualified electors shall vote on such proposed amendment; and on the official ballot provided for such election, there shall be printed the following: "Shall the following be adopted as an amendment to Section 8 of the Constitution of Alabama? "Section 8. That no person shall for any indictable offense be proceeded against criminally by information, except in cases arising in the militia and volunteer forces when in actual service, or when assembled under arms as a military organization, or, by leave of the court, for misfeasance, misdemeanor, extortion and oppression in office, otherwise than is provided in the Constitution; provided, that in cases of misdemeanor, the Legislature may by law dispense with a grand jury and authorize such prosecutions and proceedings before justices of the peace or such other inferior courts as may be by law established. Provided futher that in all felony cases, except those punishable by capital punishment, the Legislature may by law dispense with a grand jury and authorize such prosecutions and proceedings in such manner as may be provided by law if the defendant, after having had the advice of counsel of his choice or in the event he is unable to employ counsel, the advice of counsel which must be appointed by the court, makes known in open court to a judge of a court having jurisdiction of the offense that he desires to plead guilty, provided, however, the defendant cannot plead guilty within fifteen days after his arrest." "(Yes.....)" "(No.....)"

Section 4. The officials for such election shall be appointed and such election shall be held in all things in accordance with the laws governing general elections except that the expenses of said election shall be paid out of the State Treasury, provided the same can be paid by the State under the provisions of the Constitution.

Section 4-a. That there is hereby appropriated out of the

General Funds, or any available funds of the State, such sums as may be necessary to defray the expenses of this election.

Section 5. The votes cast at such election shall be canvassed, tabulated, and returns thereof shall be made to the Secretary of State, and counted in the same manner as in elections for Representatives in the Legislature; and, if it shall appear that a majority of the qualified electors who voted at such election upon the proposed amendment voted in favor of the same, such Amendment shall be valid to all intents and purposes as a part of the Constitution of the State of Alabama. The result of such election shall be made known by a proclamation of the Governor.

Passed the Senate and House of Representatives as amended March 29, 1939.

No. 8)

(S. 4—Poole

AN ACT

To propose an amendment to Section 124 of the Constitution of Alabama, and to order an election for the qualified electors of the State of Alabama upon such proposed amendment to be held on the Second Tuesday after the expiration of three months from and after the final adjournment of the present session of the Legislature, at which this amendment is proposed; and to provide for the expenses of holding said election.

Be it Enacted by the Legislature of Alabama:

Section 1. The following amendment to Section 124 of the Constitution of the State of Alabama is hereby proposed and an election is hereby ordered by the qualified electors of the State of Alabama upon the proposed amendment and the day hereby appointed for the said election is the Second Tuesday after the expiration of three months from and after the final adjournment of the present session of the Legislature. The proposed amendment is as follows: "Section 124. The Governor shall have power to grant reprieves and commutations to persons under sentence of death. The Legislature shall have power to provide for and to regulate the administration of pardons, paroles, remission of fines and forfeitures, and may authorize the courts having criminal jurisdiction to suspend sentence and to order probation. No pardon shall relieve from civil and political disabilities unless specifically expressed in the pardon."

Section 2. Notice of the election hereby ordered, together with the amendment hereby proposed, shall be given by proclamation of the Governor, which shall be published in one newspaper in every county in the State once a week for at least four successive weeks next preceding the day hereby appointed for such election.

Section 3. At the election hereby ordered to be held as

herein provided, the qualified electors shall vote on such proposed amendment, and on the official ballot provided for such election there shall be printed the following: "Shall the following be adopted as an amendment to Section 124 of the Constitution of Alabama?" "Section 124. The Governor shall have power to grant reprieves and commutations to persons under sentence of death. The Legislature shall have power to provide for and to regulate the administration of pardons, paroles, remission of fines and forfeitures, and may authorize the courts having criminal jurisdiction to suspend sentence and to order probation. No pardon shall relieve from civil and political disabilities unless specifically expressed in the pardon." "() Yes" "() No"

Section 4. The officials for such election shall be appointed and such election shall be held in all things in accordance with the laws governing general elections except that the expenses of said election shall be paid out of the State Treasury, provided the same can be paid by the State under the provisions of the Constitution.

Section 4-a. That there is hereby appropriated out of the General Funds, or any available funds of the State, such sums as may be necessary to defray the expenses of this election.

Section 5. The votes cast at such election shall be canvassed, tabulated and returns thereof shall be made to the Secretary of State and counted in the same manner as in elections for representatives in the Legislature; and, if it shall thereupon appear that a majority of the qualified electors who voted at such election upon the proposed amendment voted in favor of the same, such amendment shall be valid to all intents and purposes as a part of the Constitution of the State of Alabama. The result of such election shall be made known by a proclamation of the Governor.

Passed by the Senate and House of Representatives, as amended, March 29, 1939.

No. 9)

(S. J. R. 14—Stakely

SENATE JOINT RESOLUTION

Pertaining to the annual football game in the City of Montgomery, Alabama, known as "The Blue and Gray Game."

Be it Resolved by the Senate, the House Concurring: That

WHEREAS, there was inaugurated on the 2nd day of January, 1939, an annual football game in the City of Montgomery, Alabama, known as "The Blue and Gray Game"; and

WHEREAS, it is the considered judgment of the Legislature of the State of Alabama, that an annual affair of this kind, participated in by the cream of the Northern football players and the

cream of the Southern football players, would be conducive to the promotion of a better understanding and a friendlier relationship between citizens of the North and the citizens of the South; and

WHEREAS, such an affair promises to become one of the outstanding sports events of the Nation,

NOW, THEREFORE, BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALABAMA:

That the Blue and Gray Game be and it hereby is commended to the Nation, and that the approval of this Body be and the same is hereby granted, without reservation, to the Blue and Gray Cradle Association sponsoring this event, and all patriotic citizens of the State of Alabama are by this resolution urged to show their affection for and interest in the aims and purposes of this Association by becoming members of the Blue and Gray Cradle Association.

Approved April 5, 1939.

No. 10)

(H. J. R. 9—Toomer

HOUSE JOINT RESOLUTION

WHEREAS the Honorable Franklin D. Roosevelt, President of these United States, and his official party will visit Tuskegee and Auburn, Alabama, on March 30th, 1939, en route to Warm Springs, Georgia, and

WHEREAS suitable programs have been planned at Tuskegee and Auburn, Alabama, and the President will speak on both occasions, and

WHEREAS it is the desire of this Legislature to show its admiration and respect for the President by giving him a hearty welcome to the State of Alabama by attendance of these programs, and

WHEREAS the Legislature has adjourned for Thursday, March 30th,

THEREFORE, BE IT RESOLVED by the House, the Senate concurring, that the citizens of Alabama, and the Legislature of Alabama, be, and they are hereby, urged to show their patriotism and hospitality by attending these programs.

Approved April 5, 1939.

No. 11)

(H. J. R. 11—Welch

HOUSE JOINT RESOLUTION

RESOLVED by the House, the Senate concurring, that the Secretary of State and the Doorkeeper of the House, and the Doorkeeper of the Senate, be and they are hereby relieved of any

and all liability and responsibility for the Codes and the Acts of the Legislature placed on the desks of the members of the two houses for their use during the sessions of the Legislature of 1939.

Approved April 5, 1939.

No. 12)

(H. 22—Davis of Madison

AN ACT

To propose an amendment to the Constitution of Alabama relating to the time of convention of the Legislature, the length of sessions of the Legislature, and the compensation and travel allowance of members of the Legislature, and to order an election by the qualified electors of the State of Alabama upon such proposed amendment to be held on the Second Tuesday after the expiration of three months after the final adjournment of the present session of the Legislature. And to provide for the expenses of holding said election.

Be it Enacted by the Legislature of Alabama:

Section 1. The following amendment to the Constitution of the State of Alabama is hereby proposed and an election is hereby ordered by the qualified electors of the State of Alabama upon the proposed amendment, and the day hereby appointed for said election is the Second Tuesday after the expiration of three months from and after the final adjournment of the present session of the Legislature. The proposed amendment is as follows: "All sessions of the Legislature shall be held at the Capitol in the Senate Chamber and in the Hall of the House of Representatives; unless at any time it should from any cause become impossible or dangerous for the Legislature to meet or remain at the Capitol or for the Senate to meet or remain in the Senate Chamber, or for the Representatives to meet or remain in the Hall of the House of Representatives, in which case the Governor may convene the Legislature, or remove it after it has convened, to some other place, or may designate some other place for the sitting of the respective houses, or either of them, as necessity may require. "The Legislature shall convene on the second Tuesday in January next succeeding their election and shall remain in session for not longer than ten consecutive calendar days. No business can be transacted at such sessions except the organization of the Legislature, the election of officers and the appointment of standing committees of the Senate and the House of Representatives for the ensuing four years, which election and appointment may, however, also be made at such other times as may be necessary, the opening and publication of the returns and the ascertainment and declaration of the results of the election for Governor. Lieutenant-Governor, Attorney-General, State Auditor, Secretary of State, State Treasurer, Superintendent of Education and Commissioner of Agriculture

and Industries, the election of such officers in the event of a tie vote, the determination of contested elections for such offices, the judging of the elections returns and qualifications of the members of the Legislature, and the inauguration of the Governor and the other elected State officers whose terms of office are concurrent with that of the Governor. At the beginning of each such organization session, and at such other times as may be necessary, the Senate shall elect one of its members president pro tempore thereof, to preside over its deliberations in the absence of the Lieutenant-Governor, and the House of Representatives shall elect one of its members as Speaker, to preside over its deliberations. The President of the Senate and the Speaker of the House of Representatives shall each hold his respective office until his successor has been elected and qualified. "The Legislature shall convene in regular sessions on the first Tuesday in May of 1943 and on the first Tuesday in May in each second year thereafter, until the date of meeting shall have been changed by Act of the Legislature and approved by the Governor. No such regular session shall continue for longer than sixty consecutive calendar days. "No special session of the Legislature convened in the manner provided by this Constitution shall continue for longer than thirty consecutive calendar days. "The pay of members of the Legislature shall be ten dollars for each day during the period in which the Legislature is in session but not exceeding in any event the number of calendar days for which the Legislature is authorized to be in session. Each member of the Legislature shall be paid ten cents per mile in going from his residence to, and in returning to his residence from, the seat of government, to be computed by the nearest usual route traveled, and no more than one such travel allowance shall be paid for each session of the Legislature. "The provisions of this Constitution in conflict herewith are hereby modified to conform to the provisions of this amendment. "The provisions of this amendment shall become effective at the beginning of the term of the members of the Legislature elected at the General Elections in 1942."

Section 2. Notice of the election hereby ordered, together with the amendment hereby proposed, shall be given by proclamation of the Governor, which shall be published in one newspaper in every county in the State once a week for at least four successive weeks next preceding the day hereby appointed for such election.

Section 3. At the election hereby ordered to be held as herein provided the qualified electors shall vote on such proposed amendment, and on the official ballot provided for such election there shall be printed the following: "Shall the follow-

ing be adopted as an amendment to the Constitution of Alabama: "All sessions of the Legislature shall be held at the Capitol in the Senate Chamber and in the Hall of the House of Representatives; unless at any time it should from any cause become impossible or dangerous for the Legislature to meet or remain at the Capitol or for the Senate to meet or remain in the Senate Chamber, or for the Representatives to meet or remain in the Hall of the House of Representatives, in which case the Governor may convene the Legislature, or remove it after it has convened, to some other place, or may designate some other place for the sitting of the respective houses, or either of them, as necessity may require. "The Legislature shall convene on the second Tuesday in January next succeeding their election and shall remain in session for not longer than ten consecutive calendar days. No business can be transacted at such sessions except the organization of the Legislature, the election of officers and the appointment of standing committees of the Senate and the House of Representatives for the ensuing four years, which election and appointment may, however, also be made at such other times as may be necessary, the opening and publication of the returns and the ascertainment and declaration of the results of the election for Governor, Lieutenant-Governor, Attorney-General, State Auditor, Secretary of State, State Treasurer, Superintendent of Education and Commissioner of Agriculture and Industries, the election of such officers in the event of a tie vote, the determination of contested elections for such offices, the judging of the election returns and qualification of the members of the Legislature, and the inauguration of the Governor and the other elected State officers whose terms of office are concurrent with that of the Governor. At the beginning of each such organization session, and at such other times as may be necessary, the Senate shall elect one of its members president pro tempore thereof, to preside over its deliberations in the absence of the Lieutenant-Governor, and the House of Representatives shall elect one of its members as Speaker, to preside over its deliberations. The President of the Senate and the Speaker of the House of Representatives shall each hold his respective office until his successor has been elected and qualified. "The Legislature shall convene in regular sessions on the first Tuesday in May of 1943 and on the first Tuesday in May in each second year thereafter, until the date of meeting shall have been changed by Act of the Legislature and approved by the Governor. No such regular session shall continue for longer than sixty consecutive calendar days. "No special session of the Legislature convened in the manner provided by this Constitution shall continue for longer than thirty consecutive calendar days. "The pay of members of the Legislature shall be ten dollars for each day during the

period in which the Legislature is in session but not exceeding in any event the number of calendar days for which the Legislature is authorized to be in session. Each member of the Legislature shall be paid ten cents per mile in going from his residence to, and in returning to his residence from, the seat of government, to be computed by the nearest usual route traveled, and not more than one such travel allowance shall be paid for each session of the Legislature. "The provisions of this Constitution in conflict herewith are hereby modified to conform to the provisions of this amendment. "The provisions of this amendment shall become effective at the beginning of the term of the members of the Legislature elected at the General Election in 1942." (Yes.....) "No.....")

Section 4. The officials for such election shall be appointed and such election shall be held in all things in accordance with the laws governing general elections except that the expenses of said election shall be paid out of the State Treasury, provided the same can be paid by the state under the provisions of the Constitution.

Section 4-A. That there is hereby appropriated out of the General Funds, or any available funds of the State, such sums as may be necessary to defray the expenses of this election.

Section 5. The votes cast at such election shall be canvassed, tabulated and returns thereof shall be made to the Secretary of State and counted in the same manner as in elections for representatives in the Legislature; and, if it shall thereupon appear that a majority of the qualified electors who voted at such election upon the proposed amendment voted in favor of the same, such amendment shall be valid to all intents and purposes as a part of the Constitution of the State of Alabama. The result of such election shall be made known by a proclamation of the Governor.

Passed by the Senate and the House of Representatives, as amended, March 29, 1939.

No. 13)

(H. J. R. 7—Norman of Bullock

HOUSE JOINT RESOLUTION

WHEREAS Section 2918 of the Code of 1923 requires that the General and Local Acts, and the joint resolutions of the Legislature be printed and bound in book form, and

WHEREAS this would entail unnecessary expense in connection with the extraordinary session which convened on March 16, 1939, as only a very small number of bills were approved at said extraordinary session,

NOW, THEREFORE, BE IT RESOLVED BY THE

HOUSE, the Senate concurring, that the Secretary of State be authorized to have the acts of the extraordinary session of the Legislature, which convened on March 16, 1939, bound together in the same volume or volumes with the Acts of the regular session of the Legislature of 1939; and that the Journals of the House and Senate of the extraordinary session which convened on March 16, 1939, be bound together with the Journals of the House and Senate of the regular session of the Legislature of 1939.

Approved April 5, 1939.

No. 14)

(H. 8—Robertson of Cullman

AN ACT

To grant a bank or trust company the option to refuse payment of a check or other instrument payable on demand at such bank or trust company, in the event such check or instrument payable on demand is presented more than six months after its date, and to relieve the bank or trust company of liability to the drawer or maker for dishonoring the check or other demand instrument by nonpayment thereof.

Be it Enacted by the Legislature of Alabama:

Section 1. Where a check or other instrument payable on demand at any bank or trust company doing business in this state is presented for payment more than six months from its date, such bank or trust company may, unless expressly instructed by the drawer or maker to pay the same, refuse payment thereof and no liability shall thereby be incurred to the drawer or maker for dishonoring the instrument by nonpayment.

Section 2. All laws or parts of laws in conflict with this Act be and the same are hereby repealed.

Section 3. This Act shall take effect and be operative immediately upon its approval by the Governor or upon it becoming a law.

Approved April 5, 1939.

No. 15)

(H. 12—Allen

AN ACT

To propose an amendment to Section 74 of the Constitution of Alabama and to order an election by the qualified electors of the State of Alabama upon such proposed amendment to be held on the second Tuesday after the expiration of three months from and after the final adjournment of the present session of the Legislature at which this amendment is proposed and to provide for the expenses of holding said election.

Be it Enacted by the Legislature of Alabama:

“Section 1. The following amendment to Section 74 of the

Constitution of the State of Alabama is hereby proposed and an election is hereby ordered by the qualified electors of the State of Alabama upon the proposed amendment, and the day hereby appointed for the said election is the second Tuesday after the expiration of three months from and after the final adjournment of the present session of the Legislature, this date being not less than three months after the final adjournment of the session of the Legislature at which this amendment is proposed. The proposed amendment is as follows: 'Section 74. No Act of the Legislature shall authorize the investment of any trust fund by executors, administrators, guardians, or other trustees in the stock of any private corporation; any such Acts now existing are avoided, saving investments heretofore made; provided, however, that, unless otherwise provided by the Legislature, any of said mentioned trust funds may be invested in corporation or institutions, investments in which are guaranteed as to principal by the United States Government or insured as to principal by any instrumentality or agency thereof, provided such investments shall not exceed the amount insured by any such instrumentality or agency.'

"Section 2. Notice of the election hereby ordered, together with the amendment hereby proposed, shall be given by proclamation of the Governor, which shall be published in one newspaper in every county in the State once a week for at least four successive weeks next preceding the day hereby appointed for such election.

Section 3. At the election hereby ordered to be held as herein provided, the qualified electors shall vote on such proposed amendment, and on the official ballot provided for such election there shall be printed the following: "'Shall the following be adopted as an amendment to Section 74 of the Constitution of Alabama?'" "Section 74. No Act of the Legislature shall authorize the investment of any trust fund by executors, administrators, guardians, or other trustees in the stock of any private corporation; any such Acts now existing are avoided, saving investments heretofore made; provided, however, that, unless otherwise provided by the Legislature, any of said mentioned trust funds may be invested in corporations or institutions, investments in which are guaranteed as to principal by the United States Government or insured as to principal by any instrumentality or agency thereof, provided such investments shall not exceed the amount insured by any such instrumentality or agency." "() Yes "() No'

"Section 4. The officials for such election shall be appointed and such election shall be held in all things in accordance with the laws governing general elections except that the expenses of said election shall be paid out of the State Treasury, provided the same can be paid by the State under the provisions of the Con-

stitution.

Section 4-a. "That there is hereby appropriated out of the General Funds, or any available funds of the State, such sums as may be necessary to defray the expenses of this election.

"Section 5. The votes cast at such election shall be canvassed, tabulated and returns thereof shall be made to the Secretary of State and counted in the same manner as in elections for representatives in the Legislature; and, if it shall thereupon appear that a majority of the qualified electors who voted at such election upon the proposed amendment voted in favor of the same, such amendment shall be valid to all intents and purposes as a part of the Constitution of the State of Alabama. The result of such election shall be made known by a proclamation of the Governor."

Passed the Senate and House as amended March 31, 1939.

No. 16)

(H. 30—Hodo

AN ACT

To authorize trustees, executors, administrators, guardians, and other persons acting in a fiduciary capacity to invest funds of their trust in interest bearing warrants of any county or city board of education in the State of Alabama, which warrants are secured by a pledge of a special three (3) mill county tax for schools, or a special three (3) mill district tax for schools.

Be it Enacted by the Legislature of Alabama:

Section 1. A Trustee, Executor, Administrator, Guardian, or one acting in any other fiduciary capacity may, with the exercise of reasonable business prudence, in addition to any other investments now permitted by law, invest funds in interest-bearing warrants of any county or city board of education in the State of Alabama, which warrants are secured by a pledge of a special three-mill county tax for schools or a special three-mill district tax for schools.

Section 2. All laws and parts of laws in conflict with any of the provisions of this Act are hereby expressly repealed.

Section 3. This Act shall take effect immediately upon approval by the Governor.

Approved April 5, 1939.

No. 17)

(H. 40—Smyer

AN ACT

To further regulate, define and distribute the powers and duties of County Commissions and County Commission members in all Counties in this State having a population of 300,000 inhabitants or more according to the last or any subsequent Federal Census.

Be it Enacted by the Legislature of Alabama:

Section 1. That in all Counties having a population of 300,000 or more according to the last or any subsequent Federal census the powers and duties now or hereafter conferred by law upon County Commissions and the members thereof shall be distributed into and among three departments, as follows: 1. Department of Finance and General Administration, which department shall be specially charged with the general administration of the financial affairs of the County, the purchase of supplies, the collection of taxes, licenses and all other sources of income, the expenditures of the County, the management of its sinking fund, the management of the public buildings of the County and the accounting and records of the County's affairs. In this department shall fall the supervision and administration of such control and supervision as the commission has over the following offices and departments of the County Government: The Chief Clerk of the Commission, the probate judge's office, the offices of the various courts, the office of the county treasurer, the office of tax collector, the office of tax assessor, the office of any board of review or similar board, including any boards of appraisement, the office of the election commission, the office of any purchasing department, the office of the board of registrars, and the office of the license commissioner. 2. Department of Public Works, which department shall have special supervision over all public improvements in the county, including the construction, improvement and maintenance of the highways, streets, bridges, ferries, sewage, disposal plants, sewage lines, and the erection of all public buildings, except those buildings used or to be used by the Department of Public Welfare, provided for herein. 3. Department of Public Welfare, which department shall have supervision over all eleemosynary, correctional and welfare institutions and agencies of the county, including county hospitals, clinics, institutions for the aged and indigent, prisons, jails, juvenile court, health department, department of public welfare, county farm and county home demonstration agents, social service agencies, sheriff's office, and county employees or agents performing the duties of coroner. The powers and duties pertaining to each of said departments shall be performed by the President and the commissioners in accordance with the general plan above out-

lined, the President of the Commission being in charge of the Department of Finance and General Administration, Associate Commissioner Number 1 being in charge of the Department of Public Works, and Associate Commissioner Number 2 being in charge of the Department of Public Welfare. The head of each such department shall supervise and control its operation subject to the authority of the Commission as a whole. The President of the Commission shall be the general executive officer and shall be charged with the general supervision and direction of the County's affairs. Any department of the County Government not specifically assigned hereinabove to either one of the departments 1, 2 or 3, may by action of the Commission be assigned to either of said departments. The health and quarantine matters shall be administered in accordance with the established health system of the State and such health laws as are now in force or may hereafter be enacted, and nothing in this Act shall be construed as repealing or otherwise affecting the provisions of any civil service law now or hereafter in force or effect in any such County.

Section 2. This act shall take effect upon its approval by the Governor.

Approved April 5, 1939.

No. 18)

(H. 42—Jones

AN ACT

To make an appropriation of One Hundred Thousand Dollars (\$100,000.00) or so much thereof as may be necessary, out of any funds in the State Treasury not otherwise appropriated, to defray the expenses of the present session of the Legislature.

Be it Enacted by the Legislature of Alabama:

Section 1. That there is hereby appropriated out of any funds in the State Treasury not otherwise appropriated, the sum of One Hundred Thousand Dollars (\$100,000.00), or so much thereof as may be necessary, to defray the expenses of the present session of the Legislature.

Section 2. That this Act shall become effective immediately upon its approval by the Governor.

Approved April 5, 1939.

No. 19)

(S. 11—McCall

AN ACT

To propose an amendment to Section 190 of the Constitution of Alabama, and to order an election for the qualified electors of the State of Alabama upon such proposed amendment, to be held on the second Tuesday after the expiration of three months from and after the final adjournment of the present session of the Legislature, at which this amendment is proposed; and to provide for the expenses of holding said election.

Be it Enacted by the Legislature of Alabama:

Section 1. The following amendment to Section 190 of the Constitution of the State of Alabama is hereby proposed and an election is hereby ordered by the qualified electors of the State of Alabama upon the proposed amendment and the day hereby appointed for the said election is the second Tuesday after the expiration of three months from and after the final adjournment of the present session of the Legislature. The proposed amendment is as follows: "Section 190. The Legislature shall pass laws not inconsistent with this Constitution to regulate and govern elections and all such laws shall be uniform throughout the State except that the Legislature may, by general or local law, permit the use of voting machines or other mechanical devices, for registering, recording and computing the votes at all elections, including primary elections, in any county, municipality, or other political subdivision of the State, under such regulations provided by general law with reference thereto as the Legislature may from time to time prescribe; and shall provide by law for the manner of holding elections and of ascertaining the result of the same, and shall provide general registration laws not inconsistent with the provisions of this article for the registration of all qualified electors from and after the first day of January, nineteen hundred and three. The legislature shall also make provision by law, not inconsistent with this article, for the regulation of primary elections and for punishing frauds at the same, but shall not make primary elections compulsory. The legislature shall by law provide for purging the registration list of the names of those who died, become insane, or convicted of crime, or otherwise disqualified as electors under the provisions of this constitution, and of any names which may have been fraudulently entered on such list by the registrars; provided, that a trial by jury may be had on the demand of any person whose name is proposed to be stricken from the list."

Section 2. Notice of the election hereby ordered, together with the amendment hereby proposed, shall be given by proclamation of the Governor, which shall be published in one newspaper

in every county in the State once a week for at least four successive weeks next preceding the day hereby appointed for such election.

Section 3. At the election hereby ordered to be held as herein provided, the qualified electors shall vote on such proposed amendment and on the official ballot provided for such election there shall be printed the following: "Shall the following be adopted as an amendment to Section 190 of the Constitution of Alabama? " 'Section 190. The Legislature shall pass laws not inconsistent with this Constitution to regulate and govern elections and all such laws shall be uniform throughout the State, except that the Legislature may, by general or local law, permit the use of voting machines or other mechanical devices, for registering, recording and computing the votes at all elections, including primary elections, in any county municipality, or other political subdivision of the State, under such regulations provided by general law with reference thereto as the Legislature may from time to time prescribe; and shall provide by law for the manner of holding elections and of ascertaining the result of the same, and shall provide general registration laws not inconsistent with the provisions of this article for the registration of all qualified electors from and after the first day of January, Nineteen hundred and three. The Legislature shall also make provisions by law, not inconsistent with this article, for the regulation of primary elections, and for punishing frauds at the same, but shall not make primary elections compulsory. The Legislature shall by law provide for purging the registration list of the names of those who die, become insane, or convicted of crime, or otherwise disqualified as electors under the provisions of this Constitution, and of any names which may have been fraudulently entered on such list by the registrars; provided, that a trial by jury may be had on the demand of any person whose name is proposed to be stricken from the list.' "() Yes () No."

Section 4. The officials for such election shall be appointed and such election shall be held in all things in accordance with the laws governing general elections except that the expenses of said election shall be paid out of the State Treasury, provided the same can be paid by the State Treasury, provided the same can be paid by the State under the provisions of the Constitution."

Section 4-a. "That there is hereby appropriated out of the General Funds, or any available funds of the State, such sums as may be necessary to defray the expenses of this election.

Section 5. The votes cast at such election shall be canvassed, tabulated and returns thereof shall be made to the Secretary of State and counted in the same manner as in elections for representatives in the Legislature; and, if it shall thereupon appear that

a majority of the qualified electors who voted at such election upon the proposed amendment voted in favor of the same, such amendment shall be valid to all intents and purposes as a part of the Constitution of the State of Alabama. The result of such election shall be made known by a proclamation of the Governor.

Passed the House of Representatives and Senate, as amended, March 31, 1939.

No. 20)

(S. 18—McCall

AN ACT

To amend Section 2932 of the Code of 1923, so as to read as follows: The seal shall be circular, and the diameter thereof two and a quarter inches; near the edge of the circle shall be the word "Alabama," and opposite this word, at the same distance from the edge, shall be the words, "great seal." In the center of the seal there shall be a representation of a map of the State with its principal rivers. The seal shall be called the "Great Seal of the State of Alabama."

Be it Enacted by the Legislature of Alabama:

Section 1. That Section 2932 of the Code of 1923 be amended, so as to read as follows: The seal shall be circular, and the diameter thereof two and a quarter inches; near the edge of the circle shall be the word "Alabama," and opposite this word, at the same distance from the edge, shall be the words, "great seal." In the center of the seal there shall be a representation of a map of the State with its principal rivers. The seal shall be called the "Great seal of the State of Alabama."

Section 2. Be it further enacted, That as soon as the seal provided for in the first section of this Act shall be prepared and ready for use, the Governor shall issue his Proclamation, describing the said seal and announcing that it is to be used and known as the Great Seal of the State. From and after the date of said Proclamation the said seal shall be kept and used as required by the Constitution and laws.

Section 3. Be it further enacted, That for any and all expenses incurred in the preparation of the said seal and in publishing the Proclamation relative thereto, the Auditor, upon the Governor's order, shall issue his warrant on the Treasurer, to be paid out of any money in the treasury not otherwise appropriated.

Approved April 5, 1939.

INDEX

TO ACTS OF THE LEGISLATURE OF THE SPECIAL SESSION OF 1939

	Page
ACTS	
Secretary of State authorized to have acts of extraordinary session bound with Acts of regular session.....	15
ACTS AMENDED	
Providing authority for State Board of Education or trustees of all state institutions where education is a part of the program, to borrow money from Federal agencies for erection buildings, beautification of grounds and erection and maintenance of swimming pools; issuance of bonds, warrants for repayment of amount borrowed, pledging fees from students, App. Sept. 13, 1935, title and body amended.....	5
ADMINISTRATORS	
Acting in fiduciary capacity, may invest funds in interest bearing warrants of any county or city board of education, secured by pledge.....	17
Investments of trust funds in corporations or institutions, guaranteed as to principal by U. S. Government or insured as to principal by any instrumentality or agency, proviso, constitutional amendment	15-17
ALABAMA POLYTECHNIC INSTITUTE	
State Board of Education and institution trustees authorized to borrow money from Federal agencies for erection buildings, beautifying grounds and building swimming pools; issuance bonds, and pledge of students' fees therefor, act amended, to include borrowing from others.....	5
APPROPRIATION	
Expenses Legislature.....	19
BANKS	
Checks payable on demand presented for payment more than six months, bank or trust company may refuse payment.....	15
Deposit of monies, bonds and mortgages, state.....	4
Granted option to refuse payment on check or other instrument payable on demand.....	15
BLUE AND GRAY CRADLE ASSOCIATION	
Blue and Gray Game commended to Nation.....	9
BONDS	
Approval of issuance of bonds at election since July 1, 1938.....	3
Authorization of issuance of, since July 1, 1938.....	3
Cities and towns creating general obligation or indebtedness, credit pledged, since July 1, 1938.....	3
Defect in proceedings to authorize bonds, including failure of bonds, validity.....	3
Irregularities in proceedings to authorize bond, including failure of bonds, validity.....	3
Sold and delivered, declared to be valid and binding obligations....	3
Validated, authorized since July 1, 1938.....	3

INDEX TO SPECIAL SESSION GENERAL LAWS—Continued

BUILDINGS

State Board of Education and institution trustees authorized to borrow money from Federal agencies for erection buildings, beautifying grounds and building swimming pools; issuance bonds, and pledge of students' fees therefor, act amended, to include borrowing from others.....	5
---	---

CHECKS

Bank and trust companies granted option to refuse payment.....	15
Payable on demand, presented for payment more than six months, bank or trust company may refuse payment.....	15

CHILDREN

Calling upon Congress for National legislation granting Alabama financial assistance for adequate school terms.....	2
---	---

CITIES AND TOWNS

Approval of issuance of bonds at election since July 1, 1938.....	3
Authorization of issuance of bonds since July 1, 1938.....	3
Bonds creating general obligation or indebtedness, credit pledged since July 1, 1938.....	3
Bonds sold and delivered, declared to be valid and binding obligations.....	3
Defect in proceedings to authorize bonds, including failure of bonds' compliance, validity.....	3
Irregularities in proceedings to authorize bonds, including failure of bonds' compliance, validity.....	3

CITY BOARD OF EDUCATION

Trustees, executors, administrators, guardians, acting in fiduciary capacity, may invest funds in interest bearing warrants of any county or city board of education, secured by pledge.....	17
--	----

CODE OF 1923 AMENDED

Section 2932 Great Seal of State.....	22
---------------------------------------	----

COMMUTATIONS

Governor power to grant, constitutional amendment.....	8-9
--	-----

CONSTITUTION AMENDMENTS PROPOSED

Investment of trust funds in corporations or institutions, guaranteed as to principal by U. S. Government or insured as to principal by any instrumentality or agency, proviso.....	15-17
Legislature may permit voting machines for registering, recording and computing votes at all elections.....	20
Legislature shall convene in regular session first Tuesday in May, 1943 and every two years thereafter, effective date, length of special sessions.....	11-14
Legislature shall have power to regulate administration of pardons, paroles, remission of finds and forfeitures, suspension of sentence, to order probation, Governor's powers.....	6-8
Legislature shall meet for ten days next succeeding election, for organization, election officers, committee appointments, tabulating returns, determination of contested elections, inauguration Governor and elected officers, effective date.....	11-14
Section 8 of Constitution of 1901, to provide for legislation dispensing with grand jury in felony cases; authorizing prosecution, defendant pleading guilty, exception.....	6-8

INDEX TO SPECIAL SESSION GENERAL LAWS—Continued

COUNTIES 300,000 OR MORE POPULATION	
Department of Finance and General Administration, duties.....	18
Department of Public Welfare.....	18
Department of Public Works, duties.....	18
Powers and duties of county commission, distributed.....	18
President of commission charged with general supervision and direction of county's affairs.....	18
COUNTY BOARD OF EDUCATION	
Trustees, executors, administrators, guardians, acting in fiduciary capacity, may invest funds in interest bearing warrants of any county or city board of education, secured by pledge.....	17
COUNTY COMMISSIONS	
Powers and duties distributed, counties 300,000 or more population	18
DEPOSITORY	
Duties State Treasurer.....	4
Monies, bonds and mortgages state.....	4
DOORKEEPERS OF HOUSE AND SENATE	
Relieved of liability for codes and acts furnished members of the Legislature.....	10
EDUCATION	
Calling upon Congress for National legislation granting Alabama financial assistance for adequate school terms for children.....	2
EXECUTORS	
Acting in fiduciary capacity, may invest funds in interest bearing warrants of any county or city board of education, secured by pledge.....	17
Investment of trust funds in corporations or institutions, guaranteed as to principal by U. S. Government or insured as to principal by any instrumentality or agency, proviso, constitutional amendment.....	15-17
FELONIES	
Legislation may dispense with grand jury and authorize prosecutions, defendant pleading guilty, exception, constitutional amendment	6-8
FINANCE AND GENERAL ADMINISTRATION	
Duties County Commission counties 300,000 or more population, distributed	18
FINES, REMISSION	
Legislature shall have power to regulate, constitutional amendment	8-9
FOOTBALL	
Joint resolution commending the Blue and the Gray Game to the Nation.....	9
FORFEITURES, REMISSION	
Legislature shall have power to regulate, constitutional amendment	8-9
FORT McCLELLAN	
State Highway Department and Bureau of Roads in Washington urged to consider construction of paved road between Fort Oglethorpe and.....	2

INDEX TO SPECIAL SESSION GENERAL LAWS—Continued

FORT OGLETHORPE

State Highway Department and Bureau of Roads in Washington urged to consider construction of paved road between Fort Oglethorpe and Fort McClellan.....	2
---	---

GOVERNOR

Shall have power to grant reprieves and commutations.....	8-9
---	-----

GRAND JURY

In felony cases.....	6-8
Section 8 of Constitution of 1901, to provide for legislation dispensing with, in felony cases; authorizing prosecution, defendant pleading guilty, exception, constitutional amendment.....	6-8

GUARDIANS

Acting in fiduciary capacity, may invest funds in interest bearing warrants of any county or city board of education, secured by pledge.....	17
Investment of trust funds in corporations or institutions, guaranteed as to principal by U. S. Government or insured as to principal by any instrumentality or agency, proviso, constitutional amendment.....	15-17

HIGHWAY

State Highway Department of Bureau of Roads in Washington urged to consider construction of paved road between Fort Oglethorpe and Fort McClellan, joint resolution.....	2
--	---

JOINT RESOLUTIONS

Calling upon Congress for National legislation granting Alabama financial assistance for adequate school terms for children.....	2
Commending the Blue and the Gray Game to the Nation.....	9
Journals House and Senate extraordinary session to be bound with Journals regular session.....	14
Recommending that the Social Security Act be amended in order that states may be reimbursed for part of necessary cost of proper administration of three public assistance program.....	1
Relieving Secretary of State and Doorkeepers of the House and Senate of liability for codes and acts of the Legislature.....	10
Secretary of State authorized to have Acts extraordinary session Legislature bound with acts regular session.....	10
State Highway Department and Bureau of Roads in Washington urged to consider construction of paved road between Fort Oglethorpe and Fort McClellan.....	2
That present system of providing Federal grants be modified to allow for variation in grants to states in accordance with ability to pay.....	1
Urging increase in Federal grants-in-aid to States for aid to dependent children.....	1
Visit to Alabama by President Franklin D. Roosevelt.....	10

JOURNALS

Of Extraordinary session to be bound with Journals of regular session	15
---	----

INDEX TO SPECIAL SESSION GENERAL LAWS—Continued

LEGISLATURE

Appropriation expenses.....	19
Length of special session.....	11-14
May dispense with grand jury and authorize prosecution, defendant pleading guilty, exception, constitutional amendment.....	6-8
Pay, mileage members.....	11-14
Shall convene in regular session every two years.....	11-14
Shall have power to regulate administration of pardons, paroles, remission of fines and forfeitures, suspension of sentence, to order probation, constitutional amendment.....	8-9
Shall meet for ten days next succeeding election, for organization, election officers, committee appointments, tabulating returns, determination of contested elections, inauguration Governor and other elected state officers, effective date, constitutional amendment.....	11-14

PARDONS, PAROLES

Legislature shall have power to regulate administration, constitutional amendment.....	8-9
--	-----

PUBLIC WELFARE, DEPARTMENT

Duties County Commission counties 300,000 or more population, distributed.....	18
--	----

PUBLIC WORKS, DEPARTMENT

Duties County Commission counties 300,000 or more population, distributed.....	18
--	----

REPRIEVES

Governor power to grant, constitutional amendment.....	8-9
--	-----

ROAD

State Highway Department of Bureau of Roads in Washington urged to consider construction of paved road between Fort Oglethorpe and Fort McClellan, joint resolution.....	2
--	---

ROOSEVELT, FRANKLIN D.

Visit of the President to Alabama.....	10
--	----

SEAL

Description.....	22
------------------	----

SECRETARY OF STATE

Relieved of liability for codes and acts furnished members Legislature.....	10
---	----

SOCIAL SECURITY ACT

Legislation recommending amendment, joint resolution.....	1
---	---

STATE BOARD OF EDUCATION

Authorized to borrow money from Federal agencies for erection buildings, beautifying grounds and building swimming pools, issuance bonds, and pledge of students' fees therefor, act amended, to include borrowing from others.....	5
---	---

STATE INSTITUTIONS

Authorized to borrow money from Federal agencies for erection buildings, beautifying grounds and building swimming pools; issuance bonds, and pledge of students' fees therefor, act amended, to include borrowing from others.....	5
---	---

INDEX TO SPECIAL SESSION GENERAL LAWS—Continued

STATE TREASURER	
Duties	4
See Treasurer, State	
SUSPENSION OF SENTENCE	
Legislature may authorize courts	8-9
SWIMMING POOLS	
State Board of Education and institution trustee authorized to borrow money from Federal agencies for erection buildings, beautifying grounds and building swimming pools; issuance bonds, and pledge of students' fees therefor, act amended, to include borrowing from others	5
TREASURER, STATE	
Bonded officer	4
Contract with bank or trust company for safe keeping of monies, bonds, mortgages	4
Custody of monies, bonds and mortgages, securities	4
Custody of securities held by State	4
Duties	4
May authorize deposit with banks or trust companies	4
TRUST COMPANIES	
Checks payable on demand presented for payment more than six months, bank or trust company may refuse payment	15
Deposit of monies, bonds and mortgages	4
Granted option to refuse payment on check or other instrument payable on demand	15
TRUSTEES	
Acting in fiduciary capacity, may invest funds in interest bearing warrants of any county or city board of education, secured by pledge	17
TRUST FUNDS	
Investment in corporations or institutions, guaranteed as to principal by U. S. Government or insured as to principal by any instrumentality or agency, proviso, constitutional amendment	15-17
UNITED STATES	
Urged to increase grants-in-aid to States for aid to dependent children, joint resolution	1
UNIVERSITY OF ALABAMA	
Authorized to borrow money from Federal agencies for erection buildings, beautifying grounds and building swimming pools; issuance bonds, and pledge of students' fees therefor, act amended, to include borrowing from others	5
VOTING MACHINES	
Legislature may permit, constitutional amendment	20
WARRANTS	
Trustees, executors, administrators, guardians, acting in fiduciary capacity, may invest funds in interest bearing warrants of any county or city board of education, secured by pledge	17